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A HISTORY OF
THE AMERICAN PEOPLE

BY

WOODROW WILSON, PH.D., LITT.D., LL.D.

DOCUMENTARY EDITION

IN TEN VOLUMES

VOL. IX

Reunion and Nationalization

ULYSSES S. GRANT, ABOUT 1866

(From the original Brady negative, now in possession of Frederick H. Meserve, New York City)

DOCUMENTARY EDITION

A HISTORY OF THE AMERICAN PEOPLE

BY

WOODROW WILSON, PH.D., LITT.D., LL.D.
PRESIDENT OF THE UNITED STATES

ENLARGED BY THE ADDITION OF ORIGINAL SOURCES AND LEADING DOCUMENTS OF AMERICAN HISTORY INCLUDING NARRATIVES OF EARLY EXPLORERS, GRANTS, CHARTERS, CONCESSIONS, TREATIES, REVOLUTIONARY DOCUMENTS, STATE PAPERS, PROCLAMATIONS AND ENACTMENTS

ILLUSTRATED WITH CONTEMPORARY VIEWS, PORTRAITS, FACSIMILES AND MAPS SELECTED FROM RARE BOOKS AND PRINTS

IN TEN VOLUMES
VOLUME IX

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A HISTORY OF THE AMERICAN PEOPLE

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A HISTORY OF THE AMERICAN PEOPLE

DOCUMENTARY EDITION

PART I.

A HISTORY
OF THE AMERICAN PEOPLE

CHAPTER I

RECONSTRUCTION

MR. LINCOLN'S[1] death made Mr. Johnson President. The first tasks of peace were to be hardly less difficult than the tasks of war had been; and the party which had triumphed was left without executive leadership at their very beginning. Mr. Johnson was a man who, like Mr. Lincoln himself, had risen from very humble origins to posts of trust and distinction; but his coarse fibre had taken no polish, no refinement in the process. He stopped neither to understand nor to persuade other men, but struck forward with crude, uncompromising force for his object, attempting mastery without wisdom or moderation. Wisdom of no common order was called for in the tasks immediately before him. What effect had the war wrought upon the federal system? What was now the status of the States which had attempted secession and been brought to terms only by two million armed men sent into the field and the pouring out of blood and treasure beyond all reckoning? Were they again States of the Union, or had they forfeited their

[1] See page 140.

statehood and become conquered provinces merely, to be dealt with at the will of Congress? If conquered possessions, how and when were they to be made States once more and the old federal circle restored in its integrity? Mr. Lincoln had made up his mind upon these points with characteristic directness and simplicity. So long ago as December, 1863, he had issued a proclamation of amnesty[1] in which he had treated secession as a rebellion of individuals, not of States, and had offered full forgetfulness and the restoration of property and of citizenship to all who should take oath to "support, protect, and defend the constitution of the United States and the union of the States thereunder," and respect the action of the federal government in the emancipation of the slaves. Some classes of persons he excepted from the amnesty: those who had taken a prominent and official part in secession or who had left the service of the United States for the service of the Confederacy; but he invited those who would take the oath proposed to set up governments once more and make ready to take part as of old in the federal system, though they should number but one tenth of the voters of 1860. The qualified voters of Arkansas, Louisiana, and Tennessee had accepted these terms before the war ended. Mr. Lincoln had fulfilled his promise to them and given full recognition to the new governments they set up, so far as the Executive was concerned, as once more in their places in the Union. He did not stop to discuss the question of the lawyers, whether these States had been all the while in the Union, despite their attempts at secession and their acts of war against the federal government, or had for a time been out of it; and declared that he thought that

[1] See page 117.

merely an abstract inquiry, a question practically immaterial. "We all agree that the seceded States, so called, are out of their proper practical relation with the Union," he said, "and that the sole object of the government, civil and military, in regard to those States is to again get them into that proper practical relation. I believe that it is not only possible, but in fact easier, to do this without deciding or even considering whether these States have been out of the Union, than with it. Finding themselves safely at home, it would be utterly immaterial whether they had ever been abroad."

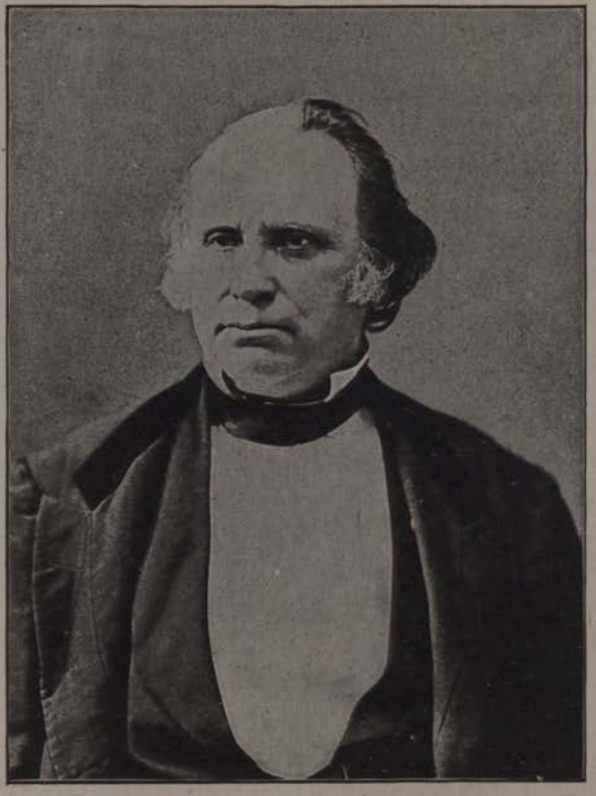
But Congress had not acquiesced in Mr. Lincoln's policy. Mr. Lincoln had been too much inclined, it seemed to the leaders of the houses, to regard the restoration of the southern States to their "proper practical relation to the Union" as a matter to be settled by the action of the Executive. The constitution made each house the sole judge of the validity of elections to its membership: Congress was at liberty, should it choose, to exclude all southern members until it should itself be satisfied with the process by which the States they claimed to represent had been re-established upon their old footing; and the temper of the congressional leaders had grown more and more radical as the fortunes of war had turned their doubt into hope, their hope into triumphant confidence. At first they had been puzzled how to read the law of the constitution in so unprecedented a matter; but each victory in arms had seemed to them to make it less necessary that they should read it with subtlety. Success seemed to clear the way for other considerations, of plainer dictate than the law of the constitution. Turn the matter this way or that, it seemed mere weakness to accord the southern

States their old place in the Union without exacting of them something more than mere submission. Should their social system be left untouched, their old life and power given back to them to be used as before for the perpetuation of political beliefs and domestic institutions which had in fact lain at the heart of the war? Opinion slowly gathered head to prevent any such course. Something should be demanded of them which should make them like the rest of the Union, not in allegiance merely, but in principle and practice as well.

Mr. Lincoln had himself made it a condition precedent to his recognition of the re-established liberties and allegiance of those southerners whom he was ready to permit to bring their States into proper practical relation with the Union again that the laws of the rehabilitated governments should "recognize and declare the permanent freedom" of the negroes and provide for their education; no one, North or South, dreamed that slavery was to be set up again. But every man mistook his feeling for principle in that day of heat, and Mr. Lincoln's cool, judicial tone and purpose in affairs was deeply disquieting to all who loved drastic action. The solemn, sweet-tempered sentences with which his second inaugural address[1] had closed seemed themselves of bad omen to high-strung men. "With malice towards none; with charity for all; with firmness in the right, as God gives us to see the right, let us strive on to finish the work we are in; to bind up the nation's wounds; . . . to do all which may achieve and cherish a just and lasting peace among ourselves, and with all nations." In the proclamation in which he had called upon all who were willing to return to their allegiance in the South to reconstruct their govern-

[1] See page 135.

ments he had promised that, as President, he would object to no temporary legislation which should deal



Henry Wilson HENRY WILSON

in exceptional fashion with the negroes "as a laboring, landless, homeless class" for a little while under tutelage, provided only their substantial freedom should be recognized and their ultimate elevation by education

provided for. There was in all this entirely too much consideration for the southern people to suit the views of ordinary partisans. An opposition gathered head against Mr. Lincoln which it seemed likely even his tact, his genius for leadership and conciliation, his authority in that day of his final prestige could not overcome.

Men of many minds and of all morals were arrayed against him: the philanthropist and the reformer, who saw the Rights of Man involved, the statesman who wished to see the ground once for all cleared of every matter of risk and controversy, the politician who was keen to gain the utmost advantage for his party, the vindictive bigot who wished to wreak exemplary vengeance on the slaveholding rebels. To many of these nothing was so exasperating as moderation,—moderation in a day of absolute triumph, when every fruit of conquest they chose to stretch out their hands and pluck was within their easy reach. It was not an air in which to judge calmly. Four years of doubt and fear and struggle had wrought every sentiment, good or bad, to the pitch of ecstasy. A radical course of reconstruction in the South had come to look like the mere 'path of duty,—of duty not to opinion only but to mankind as well. Men of imagination felt every moment of action dramatic, full of consequence, and grew self-conscious, each as it were with a touch of the emotional actor, in what they did. The extraordinary strain and tension of feeling in the houses of Congress was perceptible to mere lookers on in the galleries. It had been notably manifest when the House of Representatives agreed, on the last day of January, 1865, to an amendment of the constitution formally abolishing slavery in the very terms of the

Wilmot proviso, and the celebrated Ordinance of 1787 upon which so much bitter history had turned. The Senate had proposed the amendment, the Thirteenth it was to be,—the first change in the constitution proposed since 1803,—ten months before, on the 8th of April, 1864; but the necessary two-thirds vote had been lacking then in the House and it had been laid aside. When it came a second time to the vote a deathly stillness prevailed in the House while the roll call proceeded, until it became evident that the requisite majority was secured. Then members of the House itself broke through all restraint and joined in the great shout of joy that went up from the packed galleries, and embraced one another, with tears streaming down their cheeks, to see that prayed for end come at last. Men dreamed, as they had dreamed in the Constituent Assembly of France, that they had that day seen a new nation born, a new era ushered in.

Congress had already abolished slavery in the District of Columbia, prohibited slavery in the Territories, repealed the Fugitive Slave Law, and bestowed freedom upon the negroes who had served in the federal armies. The amendment was to complete the work of emancipation, and make the results of the war once for all safe against reaction. The votes of the southern States were necessary to make up the three-fourths vote of the States required to ratify the amendment. Those which accepted Mr. Lincoln's terms of rehabilitation ratified it without hesitation: no one doubted that a condition precedent to the final closing of the long strife that had rent the Union; and on the 18th of December, 1865, it was proclaimed an integral part of the law of the constitution.

But there were men in Congress, true spokesmen of thousands of men out-of-doors, thoughtful and thoughtless, with consciences and without, who meant to go much further. By some means they meant to thrust their hands into southern affairs to control them, to make good the freedom and the privilege of the negroes even at the cost of all privilege to those who had been their masters. To some such a course seemed a mere dictate of humanity: the nation owed it to the negro that he should be supported by the federal power until he was able to make his freedom good for himself, unassisted. To others it seemed but the plain way of prudence in statesmanship. How else could a lasting structure of law be built about the new citizenship of the one-time slave: how else could he be kept safe from the intellectual and even physical domination of the white men who once had owned him? To others it was the course of personal satisfaction: in no other way could they bring upon the spirits of southern men the punishment merited by their rebellion. To others it was the obvious means of party mastery. These last it was who, when Mr. Lincoln was gone, ruled Congress, the masters of party strategy,—as clear of their motive as Samuel Adams, as astute to veil it upon occasion: masters always by consistent and aggressive force of purpose.

The party they spoke for was not one of the historic parties of the Union. It was the child of the slavery contest. It had come into existence, an odd mixture of Whigs, Democrats, Free Soilers, Anti-Nebraska men, to prevent the spread of slavery into the Territories, and had come into power with a programme which spoke, indeed, of other matters, with a tone which

was chiefly the tone of the older Whigs, but which carried as its chief, its creative principle that single matter of the restriction of the slave power. It was without record or tradition of ordinary service in times of normal life and growth. Its single task had been war for the preservation of the Union. It could not of a sudden get the temper of that task out of its thoughts; conciliation it had never learned; compromise and accommodation seemed to it bad things of a past age when men were not bold for the right. Mr. Thaddeus Stevens, of Pennsylvania, was the real leader of the House. He had come slowly to his final view of what should be done, acted upon by the times and the confused voices of counsel about him, as every man was in that shifting air, but he had reached conclusions at last which he spoke with callous frankness. In his judgment, he said, the southern States "ought never to be recognized as capable of acting in the Union, or of being recognized as valid states, until the Constitution should have been so amended as to make it what its makers intended, and so as to secure perpetual ascendency to the party of the Union." The perpetual ascendency of his party was, in his programme, to be the guarantee of the safe reconstruction of the southern governments.

The events of the memorable summer of 1865 had hardened his temper to that view. At first Mr. Johnson had seemed to the radical leaders of Congress a man to their own mind. His origin, his character, his place of leadership among the southern men who had doggedly set themselves against secession, had made him a fit instrument of radical action. He came of plebeian stock; had risen, not by address, but by blunt force of character, from among the humbler whites who

owned no slaves, boasted no privilege, had no initiative voice in affairs; and had flung himself on the side of the Union as much out of antagonism to the men who played the parts of leadership in secession as out of principle. It was "a rich man's war," he said, "but a poor man's fight"; and he, for one, would not fight for the behoof of the rich planters who assumed the mastery in such a struggle. A "Democrat" he was still, by cast and nature committed to the elder doctrines of the Jeffersonian creed, which exalted the common man and knew no rank or privilege of class; but a Democrat for the Union. He had been put upon the presidential ticket with Mr. Lincoln because upon every question that touched the war the Republican leaders had wished to keep men of all opinions upon other matters of policy united behind Mr. Lincoln. His short and heavy figure, his rugged, swarthy face, bespoke him a man as strong, as indomitable as Stephen Douglas, for all he lacked Douglas's charm and had no gift of persuasion.

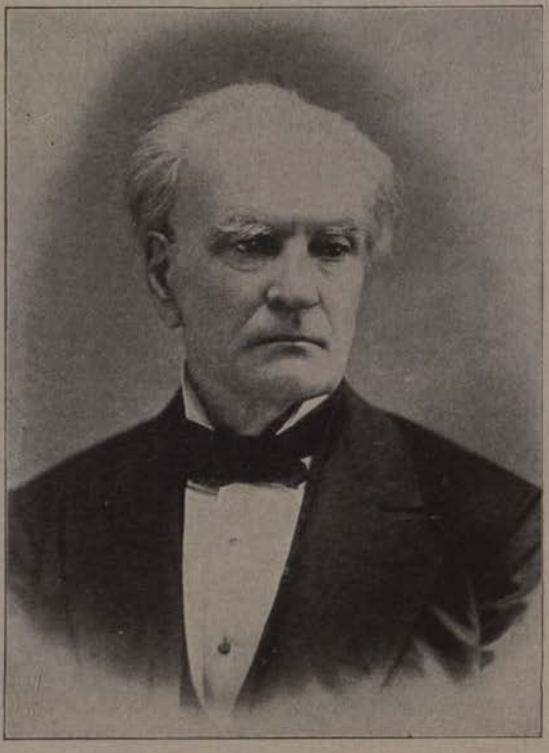
Mr. Lincoln had trusted him, and he had justified the confidence reposed in him, not indeed by wisdom, but by resolute, consistent, efficient action. When the war came he was one of the senators from Tennessee, and kept his post, ignoring the secession of his State. When his term as senator was ended Tennessee was in the hands of the federal troops, and Mr. Lincoln commissioned him military governor of the State, to bring it again into "proper practical relation to the Union" in accordance with the Executive's plan of reconstruction. Like every man, untouched with greatness, who has stood out against his own people in matters that have been carried the length of civil war, there

was a dash of bitterness in Mr. Johnson's attitude and action in affairs. The first words he uttered as President showed with what spirit he meant to use his new power. "The American people," he said, "must be taught to know and understand that treason is a crime.[1] . . . It must not be regarded as a mere difference of political opinion. It must not be excused as an unsuccessful rebellion, to be overlooked and forgiven." The Committee on the Conduct of the War, to which Congress had throughout the stress of the fighting intrusted the shaping of its business, called upon him the day following his assumption of the presidency, and took heart to believe after their interview with him that they might count upon such executive action as radicals would relish,—that they were once for all rid of the mild counsels of Mr. Lincoln. "Johnson, we have faith in you," cried Mr. Benjamin Wade, the radical leader of the Senate. "By the gods! there will be no trouble now in running the government."

But a few weeks changed the whole aspect of affairs. Mr. Johnson retained Mr. Lincoln's cabinet unchanged. More than that, he kept to the plans Mr. Lincoln had made. Perhaps his judgment was cleared by sudden access of responsibility; no doubt his knowledge of the southern people enabled him to see, more clearly even than Mr. Lincoln had seen, the healing and beneficent effects of a plan of reconstruction which should make as little of the antagonism and as much of the community of interest between the sections as possible: for he acted upon experience, Mr. Lincoln only upon the instinct of a natural leader of men. No doubt men whom he trusted gave him moderate counsel and instructed his will. Whatever the forces that ruled him,

[1] See pages 149, 152.

he proved at once that he meant to take no radical course of his own, but would follow in Mr. Lincoln's footsteps. On the 29th of May he issued his own proclamation of amnesty.[1] Its terms were substantially the terms



B. F. Wade

BENJAMIN FRANKLIN WADE

of Mr. Lincoln's proclamation of 1863. The list of those excluded for the time being was a little extended. Besides persons still prisoners of war, those who had "held the pretended offices of governors of States in insurrection against the United States," graduates of

[1] See page 154.

the military and naval academies who had been officers in the confederate service, those who had engaged in the destruction of the commerce of the United States in aid of the Confederacy,—whom Mr. Lincoln had not specifically included in his catalogue of exclusions,—he added, as if to please himself and satisfy his instinct of class, all participants in secession whose taxable property exceeded twenty thousand dollars in value. But even to those thus specifically excepted he promised to extend clemency upon very liberal terms, if they would make personal application for it, dealing with them in as generous a manner as might seem "consistent with the facts of the case and the peace and dignity of the United States."

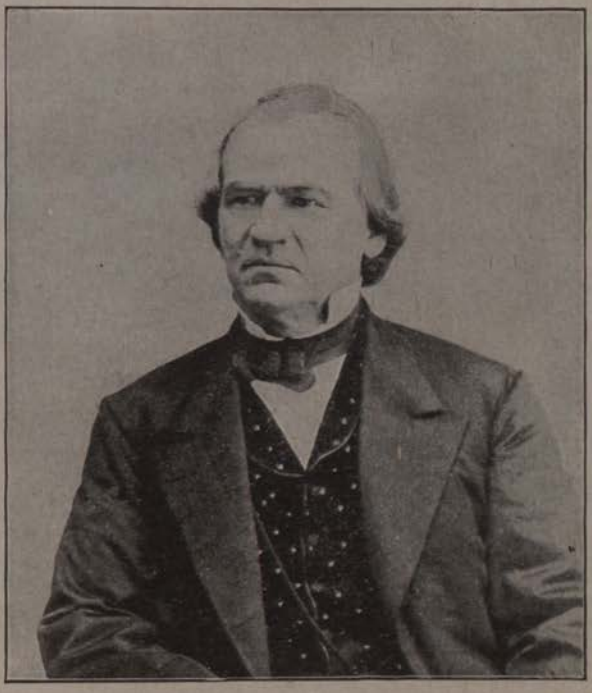
It was his plan, as it had been Mr. Lincoln's,[1] to set up new governments in the South by as simple and expeditious a process as possible. He knew as well as any man the practical details of what Mr. Lincoln had meant to do, for he had himself been Mr. Lincoln's agent in putting his plan of reconstruction into execution in Tennessee. Each State was to have a provisional governor, appointed by the President, who should be authorized to summon a constitutional convention, to be chosen under its old laws of suffrage by such of the voters of the State as would take the unqualified oath of submission and allegiance prescribed by the proclamation of amnesty. It had been Mr. Lincoln's wish to include among the voters such freedmen as could read and write and those who had served in the federal armies; Mr. Johnson confined his view to the white men qualified under the laws of their States as they had stood in the spring of 1861. Conventions made up of and selected by those who were willing

[1] See page 172.

and were permitted to take the oath offered were to be given full power to recast their state constitutions and set their state governments in order for the final withdrawal of the federal troops and the federal superintendence, provided only that the voters actually enrolled should number at least one tenth of the total number shown upon the rolls of 1861. The persons explicitly excluded from taking the oath and participating in the reconstitution of the southern governments,—those who had been the leading spirits and chief agents of the Confederacy, whether in counsel or in action,—were, of course, the leading men of the South. Almost no one could take the oath of amnesty except men of the rank and file, the men who had not been slaveholders, who had fought in the armies of the Confederacy but who had had no part except the part of mere acquiescence in bringing the war on,—the men of little property and no leading part in affairs from whose ranks Mr. Johnson himself had sprung. His added exclusion of all participants in secession who owned property valued at more than twenty thousand dollars made it the more certain that it should be a reconstruction by the third estate, and not by the old leaders of opinion. He had the greater heart and interest on that account to see the plan succeed.

He had come into office at the beginning of the long congressional recess. The term of the Congress chosen in 1862 had expired on the 4th of March; the Congress chosen in the autumn of 1864 was not to come together until December. He had eight months before him in which to act without congressional interference. He was urged to call the houses together in extraordinary session and take counsel with them what should be

done; but he refused to do so. He wished to act without restraint. He had no more doubt than Mr. Lincoln had had that the process of reconstruction, so far as it concerned the reorganization of the southern governments, was the function and the duty of the Executive,



ANDREW JOHNSON

whose power of pardon covered every offence committed against the Union upon which Congress had not passed sentence of impeachment. It rested with Congress, he knew, to determine for itself whether it would receive the senators and representatives chosen under the governments which the President should authorize

the southern conventions to set up; but the erection and recognition of those governments he conceived to be his own unquestionable constitutional prerogative. He filled the year, therefore, to the utmost with action and the rehabilitation of States.[1] By the autumn every State of the one-time Confederacy had acted under his proclamation, had set up a new government, had formally agreed to the emancipation of the negroes, and had chosen senators and representatives ready to take their seats the moment Congress should admit them. Eleven of them had in due form adopted the Thirteenth Amendment, and their votes had been counted in its ratification.

But other things had happened which had touched Congress quite as nearly as these processes of reconstruction, and the houses came together in December in no temper either to accept Mr. Johnson's leadership or to admit the southern members who had come to Washington under his patronage. Critical matters touching the negroes had put opinion in the North in a mood to insist on radical measures of legislation in behalf of the helpless multitudes whom the war had set free. Had there been no question what should be done with the negroes, all might have gone smoothly enough, whether the leaders of Congress and of opinion liked the re-admission of the southerners to their place and privilege in the general government or not. But there was much more to be done, as it seemed to the radicals who now stood at the front of counsel, than merely to determine the processes by which the governments of the southern States were to be formally reconstituted and made safe within the Union: and it was no doubt necessary to do what was to be done before admitting southern men

[1] See page 163.

to Congress, where their presence would reduce the Republican majorities from absolute mastery to mere preponderance. They were but "whitewashed rebels," at best, and in nothing showed their unchanged temper more clearly than in their treatment of the freedmen. That, in the view of the radicals, was the crux of the whole matter; and they had the pity and the humane feeling of the whole country on their side.

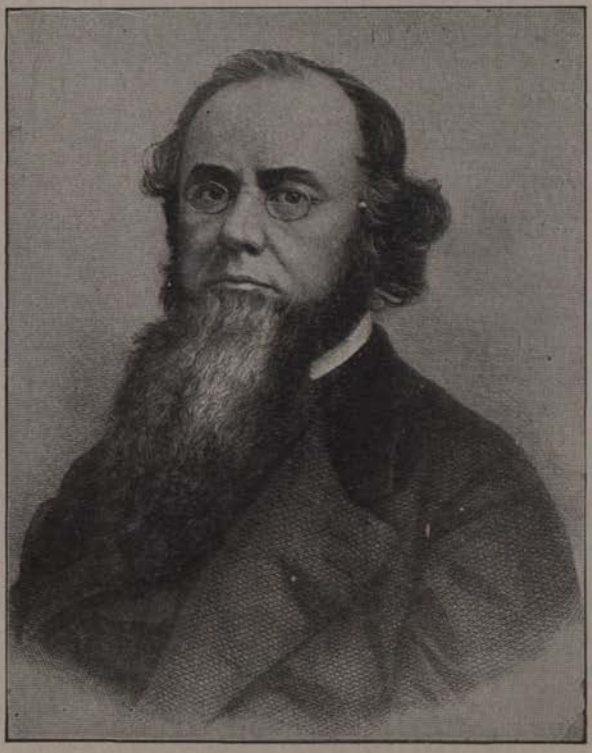
They did not deem the southerners safe friends of the freed slaves. They had not noted how quiet, how unexcited, how faithful and steady at their accustomed tasks, how devoted in the service of their masters the great mass of the negro people had remained amidst the very storm and upheaval of war; they had noted only how thousands had crowded into their camps as the armies advanced and plantations were laid waste, homes emptied of their inmates; and how every federal commander had had to lead in his train as he moved a dusky host of pitiful refugees. It was a mere act of imperative mercy to care in some sort for the helpless creatures, to give them food, if nothing else, out of the army's stores; and yet to feed them was but to increase their numbers, as the news of bread without work spread through the country-sides. When the fighting neared its end, and it was likely that the whole South would be in the hands of the federal commanders through a long season of unsettled affairs, it became obviously necessary that, for a time at least, Congress should take the negroes under the direct supervision and care of the government. On the 3d of March, 1865, therefore, while Mr. Lincoln still lived, an Act had been passed which created in the War Department a "Bureau of Refugees, Freedmen, and Abandoned Lands," whose

powers were most elastic and paternal. It was in every way to succor the negroes: to supply their physical needs when necessary, to act as their representative and guardian in finding employment and making labor contracts, to settle labor disputes and act as the next friend of negro litigants in all trials and suits at law, to lease to them tracts of abandoned land temporarily in the hands of the government because of the removal or disappearance or technical outlawry of their white owners,—in all things to supply them with privilege and protection.

It was such aid and providential succor the negroes had ignorantly looked for as the news and vision of emancipation spread amongst them with the progress of the war. They had dreamed that the blue-coated armies which stormed slowly southward were bringing them, not freedom only, but largess of fortune as well; and now their dream seemed fulfilled. The government would find land for them, would feed them and give them clothes. It would find work for them, but it did not seem to matter whether work was found or not: they would be taken care of. They had the easy faith, the simplicity, the idle hopes, the inexperience of children. Their masterless, homeless freedom made them the more pitiable, the more dependent, because under slavery they had been shielded, the weak and incompetent with the strong and capable; had never learned independence or the rough buffets of freedom.

The southern legislatures which Mr. Johnson authorized set up saw the need for action no less than Congress did. It was a menace to society itself that the negroes should thus of a sudden be set free and left without tutelage or restraint. Some stayed very

quietly by their old masters and gave no trouble; but most yielded, as was to have been expected, to the novel impulse and excitement of freedom and made their



Edwin M Stanton

EDWIN McMASTERS STANTON

way straight to the camps and cities, where the blue-coated soldiers were, and the agents of the Freedmen's Bureau. The country filled with vagrants, looking for pleasure and gratuitous fortune. Idleness bred want, as always, and the vagrants turned thieves or

importunate beggars. The tasks of ordinary labor stood untouched; the idlers grew insolent, dangerous; nights went anxiously by, for fear of riot and incendiary fire. It was imperatively necessary that something should be done, if only to bring order again and make the streets of the towns and the highways of the country-sides safe to those who went about their tasks. The southern legislatures, therefore, promptly undertook remedies of their own,—such remedies as English legislators had been familiar with time out of mind.

The vagrants, it was enacted, should be bound out to compulsory labor; and all who would not work must be treated as vagrants. Written contracts of labor were required, and current rates of wages were prescribed. Those who did not enter into formal contracts for regular employment were obliged to obtain licenses for their trades and occupations from the magistrates or the police authorities of their places of labor, under the penalty of falling under the law of vagrancy. Minor negroes were to be put under masters by articles of apprenticeship. Negroes were forbidden, upon pain of arrest by a vigilant patrol, to be abroad after the ringing of the curfew at nine o'clock, without written permission from their employers. Fines were ordered for a numerous list of the more annoying minor offences likely to be committed by the freedmen, and it was directed that those who could not pay the fines should be hired out to labor by judicial process. There was no concert or uniformity between State and State in the measures adopted: some were more harsh and radical than others. Each State acted according to the apparent exigencies and circumstances of its own people. Where the negroes mustered in largest numbers, as in South

Carolina, where they outnumbered the whites, restriction was, of course, pushed farthest and the most thorough-going legal tutelage for the freedmen attempted. Where their numbers were more manageable, where conditions were more favorable, their freedom of movement and of occupation was less interfered with.

There was nothing unprecedented in such legislation, even where it went farthest. The greater part of it was paralleled by statutes of labor and vagrancy still to be found on the statute books of several of the northern States. But it was impossible it should stand in the same light. The labor and vagrancy laws of Maine, Rhode Island, and Connecticut, which they most resembled, were uttered against a few tramps and beggars, here and there a runaway servant or apprentice, an occasional breach of duties regularly contracted for; while these new laws of the South were uttered against an entire race, but just now emancipated. Whatever their justification, it was inevitable that they should shock the sentiment of the North and make new and bitter enemies for the South in Congress. It was no ordinary time of action, when matters could be judged coolly and on their merits. For the leaders of Congress it was unpalatable enough that the southern States should have legislatures at all, upon a plan made and executed without conference with them; that those legislatures should thus undo the work of emancipation seemed a thing intolerable. And the new legislation seemed to them nothing less than that. It seemed to them merely an effort to substitute compulsory contracts of service and fixed rates of wages for the older rights of control and duties of support which custom

had vouchsafed and assigned masters of slaves,—a sort of involuntary servitude by judicial process and under the forms of contract. They did not stop to consider the pressing necessity or the extraordinary circumstances which justified such legislation. There were many theories held among them as to the legal powers and remaining rights of the southern States, but their purpose of mastery in the readjustment of southern affairs was not materially affected by their differing theories. They in effect regarded the southern States as conquered provinces, and looked upon emancipation as the main fruit of conquest. To make that emancipation good was only to secure the conquest itself. The negro had got a veritable apotheosis in the minds of northern men by the processes of the war. Those who had sent their sons to the field of battle to die in order that he might be free could but regard him as the innocent victim of circumstances, a creature who needed only liberty to make him a man; could but regard any further attempt on the part of his one-time masters to restrain him as mere vindictive defiance. They did not look into the facts: they let their sentiment and their sense of power dictate their thought and purpose.

Neither was it any part of the case, so far as they and their leaders in Congress were concerned, that the restrictive legislation which they so bitterly resented had been practically without effect, because virtually set aside by the action of the Freedmen's Bureau. Everywhere throughout the South agents of the Bureau practically made the law which should in fact govern the negro and determine his relation to his employer. It was a Bureau of the War Department; its head was a

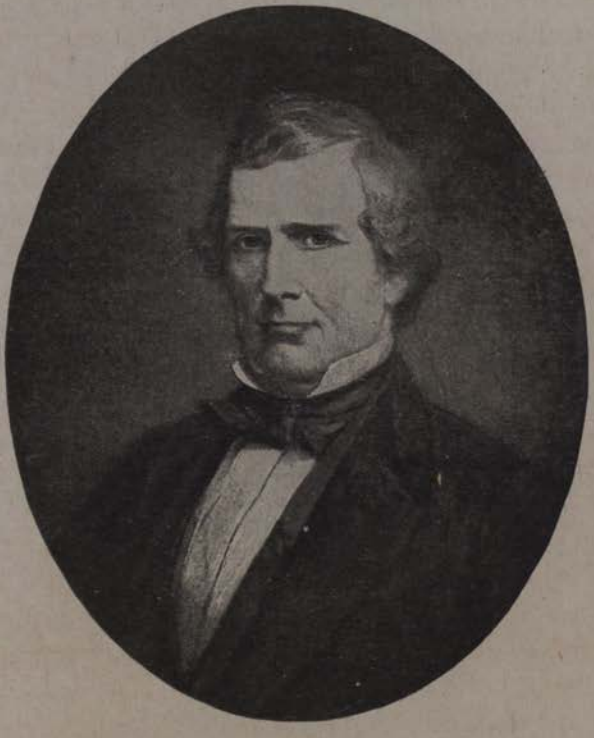
general of the army; and its agents were for the most part army officers. In many instances they were men of fine purpose and unimpeachable integrity, manly and anxious to do what was right and just to all concerned; but in many other instances they were men of petty temper, fond of using arbitrary power very masterfully, and glad upon occasion to use it for the utter humiliation of the southern white men with whom they dealt. Sometimes they were actually corrupt, and apt at every practice which promised them either added authority or private gain. Their powers, under the Act of Congress, were in effect unlimited. They interfered with the processes of the courts; constituted themselves judges of every matter, whether of law or policy, that affected the negroes; made contracts for them and released them from their obligations at will; prescribed the services they should render and the wages they should receive; ignored and set at naught every provision of state law which touched the action or the privileges of the freedmen; and, for good or ill, to fulfil their duty or to please themselves, were masters of the situation.[1]

But that was what the congressional leaders had planned and expected. It did not lessen their irritation that the southern legislators had been in large part unsuccessful in what they had attempted to do. When at last the long recess was over, therefore, and the houses once more assembled (December 4, 1865), it at once became evident that they had come together in a mood to insist upon their own way of settling southern affairs. The names of all the States that had seceded were omitted in the roll call. As soon as possible after the organization of the House, a joint committee of fifteen, consisting

[1] See page 125.

of nine representatives and six senators, was set up to take charge of the business of the houses in the matter of reconstruction. It was commissioned to make thorough inquiry into the condition of affairs at the South and to advise Congress what action it should take with regard to the readmission of the southern States to representation. There was no need that it should be in haste to report. The houses had already in effect adopted the view of Mr. Thaddeus Stevens: that the secession of the southern States had suspended all federal law, whether of the constitution or of statute, so far as they were concerned; that only the law-making and war-making branch of the federal government, the Congress itself, could authoritatively declare that law in force again; and that it might and should refuse to do so until itself satisfied of the absolute submission and unqualified obedience of the rebellious communities. There was every reason, if the President meant to stand in its way, why Congress should keep for the present its omnipotent party majorities. Each house, as it stood, had a Republican majority large enough, and compact enough, if it came to a struggle with the President, to override any veto he might venture to interpose to check its action. Should the southern States be readmitted to representation as they stood, under the President's reconstruction, they would quite certainly send Democratic members to swell the ranks of the party which had, in its convention of 1864, declared the war a failure, and would rob the war party of its predominance. For they must be accorded an increased representation. The slaves, now that they were free, must all be counted in apportioning representation; and yet the whites only would vote. It was that view

of the future of party politics that had led Mr. Sumner to declare, even before the actual struggle of the war was over, that "the cause of human rights and of the Union needed the ballots as well as the muskets of the



Thaddeus Stevens THADDEUS STEVENS

colored men"; and the leaders of the houses had no mind to yield their complete power until they had won their final ascendency.

In February, 1866, their Committee on Reconstruction safely in the saddle, they found themselves in direct conflict with the President, and the fight for which

they had made ready begun. The Act of March, 1865, which had established the Freedmen's Bureau,[1] had limited its operation to one year. On the 6th of February, 1866, a bill passed the houses continuing it indefinitely, and at the same time largely increasing its powers. It made any attempt to obstruct, interfere with, or abridge the civil rights and immunities of the freedmen a penal offence, to be adjudged and punished by federal military tribunals. The President vetoed it. He declared that he withheld his assent both because the measure was calculated to increase the restlessness and uneasiness of the negroes and delay their settlement to a normal way of life, and because it had been passed by a Congress in which the southern States were not represented; and so joined issue directly with the men who had set the houses in a way of mastery. An attempt to pass the bill over his veto failed. The full party vote was not yet at the command of the radicals; some still held off from an open and final breach with the President.

But not for long. The President was in a mood as bitter and defiant as that of the extremest radical of the congressional majority. By sheer rashness and intemperance he forced the consolidation of the majority against him. In a public speech uttered on the 22d of February, an anniversary of hope and good omen, he spoke of the majority in unmeasured terms of denunciation, and of its leaders by name, as men who themselves entertained some covert purpose of disloyalty to the government, planning to make it a government, not federal, but consolidated and unlimited in power,—it might be even encouraging some criminal deed against himself such as had once already removed

[1] See page 159.

an obstacle from the path of their ambition. Accommodation between himself and the houses was once for all impossible. It was as if he had openly declared war upon them; and their temper hardened to crush

ULYSSES SIMPSON GRANT, ABOUT 1867

him. Though the effort to pass the bill for the continuation of the Freedmen's Bureau had failed in the Senate, the houses had in their very hour of failure sent to the President and published to the country a concurrent resolution in which they announced that no senator or representative would be admitted from

any State held to have been in insurrection until Congress had upon its own terms and initiative declared it entitled to representation. Having heard his bitter speech of the 22d, they moved forward to execute the programme of their Committee on Reconstruction with a new spirit of mastery.

In March they sent to the President a "Civil Rights" bill[1] which declared "all persons born in the United States, and not subject to any foreign power," citizens of the United States; denounced severe penalties against interference with the civil rights of any class of citizens; and gave to officers of the United States the right to prosecute, to the courts of the United States the exclusive right to try, all such offences,—meaning thus to put the negroes upon a footing of civil equality with the whites in the South. The President vetoed the bill, as both unwise and in plain excess of the constitutional powers of Congress. In April, the houses passed it over his veto. The same month their Committee, as if less confident of their constitutional ground than of their parliamentary supremacy, submitted the draft of a Fourteenth Amendment to the constitution which should embody the principles of the Act in a form which would give them unalterable validity. It conferred citizenship in the terms of the bill the President had rejected. In June Congress adopted the Amendment, and it went to the States, with the understanding that no southern State which did not accept it should be readmitted to representation. Tennessee promptly adopted it, and in July was formally reinstated in her "former proper practical relation to the Union" by the admission of her senators and representatives to Congress. Her case stood apart from the rest. Ever since Mr. Lincoln's

[1] See page 168.

proclamation of 1863 was put into effect she had been in process of reorganization. She had gone doubting and divided into the Confederacy, more than half her people, it might be, still staunchly minded to stand by the Union. Her "Union men" had controlled the process of reconstruction; and were heeded without serious difficulty when they knocked for admission into the houses. The other States, being as yet in other hands, were obliged to wait.

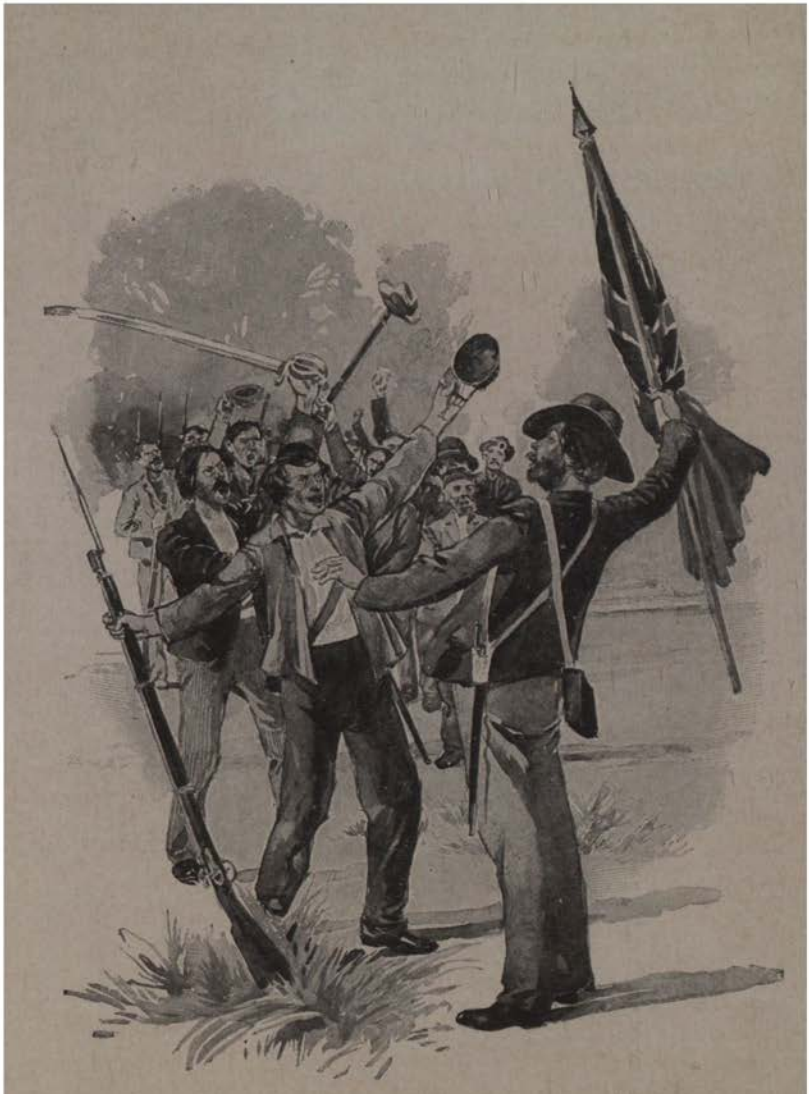
The troubled year went uneasily upon every hand. As the spring came on, and all the country saw how it had come to an open breach between the President and Congress, movements began on the Canadian frontier which discovered a new disturbing element in international politics.[1] While the war lasted New York had become the seat of the offices of a great society of Irishmen whose purpose was revolution over sea and that liberation of Ireland which Irishmen had ever prayed for. Across the sea, in Ireland, it was an association of peasants, not of politicians: it held a rank and file, not of agitators, but of plain, unsophisticated, earnest men on its rolls, men who might be taken to stand for the mass of Irish Catholics. In America it grew strong and drank of the spirit of war from the thousands of Irish-American soldiers who served as enthusiastically in the execution of its plans as in the battles for the preservation of the Union. Servant girls, cab drivers, porters, laborers on the railways filled its treasury out of their scant earnings. "Fenian," the name it bore, was said to have been the name of the ancient Celtic militia of the emerald isle from which no true Irishman ever really tore his heart entirely away. Every man who looked below the surface of affairs believed

[1] See page 206.

that some day the secret of this great organization would spring to light in some burst of revolution which would shake Ireland with the rising of a whole people; and the close of the war for the Union seemed the time it had sought for a release of its power. Its first sally was not in Ireland, but in America,—across the northern border, against the English empire in Canada. It proved a thing to smile at after it was over: a few hun-

THE FENIAN RAID IN CANADA. RUINS OF FORT ERIE

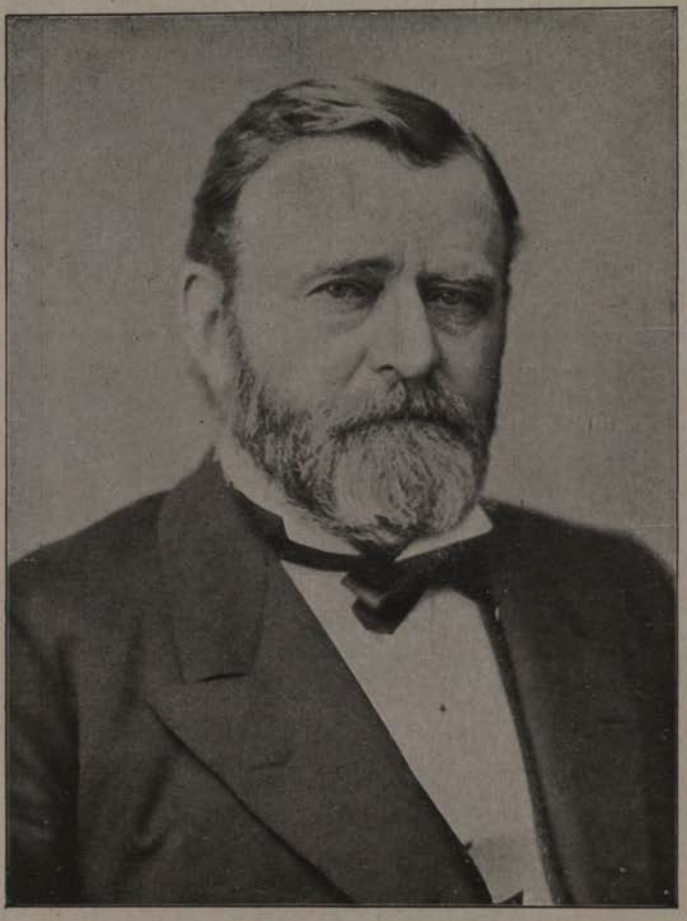
dred men attempting a set invasion; a fort here and there set upon by a handful of reckless adventurers; quick defeat, repulse, dispersion. It was no slight cause of irritation to Canada, none the less, and to the English government over sea that these foolhardy foes should come from the territory of a friendly power to attempt their purpose. The government at Washington seemed singularly indifferent; did little that was effective to check the criminal business; was apparently helpless against a handful of outlaws. A touch of tragedy was added to the perplexities of politics.



BRITISH FLAG CAPTURED BY THE FENIANS

There was tragedy enough in the domestic situation; but it was a moral tragedy, not the tragedy of bloody raids upon a peaceful border. It was impossible to come to an understanding with Mr. Johnson. A more moderate, more approachable, more sagacious, less headstrong man might by conference have hit upon some plan by which his differences with the leaders in Congress would have been accommodated and at least a *modus vivendi* devised. But to differ with Mr. Johnson was to make an enemy of him, and Congress had suspected him an opponent rather than a friend from the first and was disinclined to seek accommodation. His intemperate fashion of speech exaggerated his views in the mere statement; he seemed a violent partisan when he wished merely to enforce a conviction or make a resolute purpose plain. Mr. Sumner came away from an interview with him convinced that he had spoken with a man who heartily despised the entire North, felt a genuine contempt for its sentiments, and meant to serve the South as entirely, as openly, as illegally as Mr. Jefferson Davis himself. What was quite as bad, the South itself got wind of his partisan temper in its behalf, nursed the false hope that it would be shielded by his power, and deepened all the mischief by acting on the hope.

It was no time at which to defy northern opinion and strengthen the hands of Congress by resistance. The autumn of the year was to bring another congressional election, and the leaders of the Republican majority in the houses would go to the country with a much better chance of winning than the President could possibly count upon in the equivocal position into which



U. S. Grant

ULYSSES SIMPSON GRANT

he had got himself. In July the houses passed, over the President's veto, a bill which continued the Freedmen's Bureau for two years; provided for the sale of public lands to the negroes on easy terms; appropriated the property of the confederate government to their education; and placed their civil rights under direct military protection. On the 18th of June the Committee on Reconstruction had made formal report of its views upon the situation. It was the policy of Congress enforced by reasons,—reasons which, it might be hoped, would fortify the minds of members of Congress and please the voters of the North in the coming contest. It declared that the governments of the States recently in secession were practically suspended, by reason both of the irregular character of the new governments which had been set up and of the reluctant acquiescence of the southern people in the results of the war; and that it was essential to the peace and sound policy of the Union that they should not be reinstated in their former privileges by Congress until they should have given substantial pledges, such pledges as Congress should demand, of their entire loyalty and submission. With that appeal the houses went to the country.

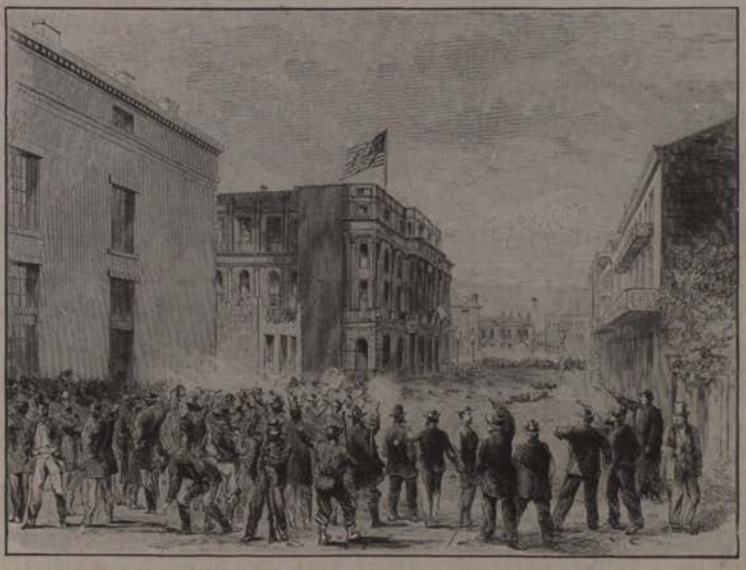
The friends of the President and of a moderate course in affairs, both Democrats and Republicans, came together in goodly numbers in convention, led by men whom the country knew and had reason to trust, and made a demonstration in favor of the policy which had been Mr. Lincoln's and which should be that of every man who loved peace and sought accommodation; and their action did not fail to make a considerable impression everywhere upon those who could put passion

aside. But Mr. Johnson would not let quiet counsel alone. Incapable of prudence, scornful of soft words, a bitter hater, cast by nature for the rough contacts of personal conflict and debate, he spoke to the country himself. At mid-summer he made a journey to Chicago, and at almost every stopping place where the people crowded about his car he uttered, with that air of passion which always went with what he said, invectives against Congress so intemperate, so coarse, so hot with personal feeling that those who heard him looked upon him as almost a man distraught, thrown from his balance. He, not the leaders of Congress, seemed the radical, the apostle of passion; and his passion, men could say, was against the Union, not for it. He had set himself, his opponents declared, not to bring peace and restore the government to its integrity, but to perpetuate discord and cheat the party of the Union of its legitimate power.

Two days after Congress adjourned (July 30, 1866) a New Orleans mob broke up an irregular "constitutional convention" of negroes and their partisans with violence and bloodshed. In October the southern States, as if taking their cue from the President, not from Congress, began, one after the other, to reject the Fourteenth Amendment; and every impression that had been formed of reaction and recalcitrancy at the South was confirmed. The result of the elections was a foregone conclusion. A Republican majority was sent to the House as overwhelming as that which dominated the Congress about to expire; the Republican numbers in the Senate were maintained. The houses came together again in December heartened, resolute, triumphant, ready to override the President with a policy

of Thorough which should put the fortunes of the South entirely at their disposal.

It was provided, by special Act, that the new Congress, just chosen, should convene, not in the following December, but on the 4th of March, 1867, in order that there might be no long vacation in which the President



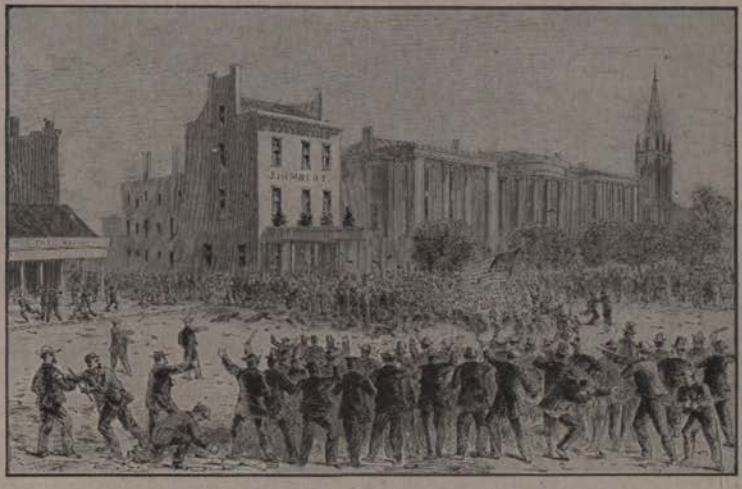
THE RIOT IN NEW ORLEANS. SIEGE AND ASSAULT ON THE CONVENTION

would be left free to exercise his independent authority. Before the 4th of March came a Reconstruction Act[1] had passed through the slow fires of debate and become law (March 2d) which embodied in their unmarred integrity the radical plans of the joint committee of fifteen. It provided that the States of the Confederacy, with the exception of Tennessee, which had already been permitted to adopt the Fourteenth Amendment

[1] See page 190.

and resume its place in Congress, should be grouped for purposes of government in five military districts, under the command of five general officers of the army to be appointed by the President. These military governors were to control and direct the processes of reconstruction. A temporary clause of the proposed Fourteenth Amendment, which the southern States had rejected, excluded from office, whether under the States or under the federal government, at the pleasure of Congress, all who had at any time or in any capacity, civil or military, taken oath to support the constitution of the United States and afterwards "engaged in insurrection or rebellion" against it, "or given aid or comfort to its enemies." The military governors under the Act were instructed to enroll in each State, under oath, only such citizens of voting age and of one year's residence within the State as they should deem qualified in accordance with the spirit of this prospective Amendment, the negroes, of course, included. They were to reject as voters all whom the proposed Amendment disqualified for office. They were then to order and hold in each State an election for delegates to a constitutional convention, in which none but the voters on their rolls should be allowed either to vote or to stand for election. They were to direct the conventions thus chosen to frame constitutions by which the elective suffrage should be extended without distinction to all classes of citizens included within the terms of the enrolment already made; and were to submit the constitutions thus framed to the same voters for ratification. When adopted by the voters, the constitutions which this plan of Thorough had brought into existence were to be sent to Congress, through the President, for final

approval. Each State, it was agreed, whose constitution Congress should approve was to be readmitted to representation so soon as its legislature had ratified the Fourteenth Amendment. Meanwhile, its government was to be deemed "provisional only, and in all respects subject to the paramount authority of the United States, at any time to abolish, control, or supersede



THE RIOT IN NEW ORLEANS. STRUGGLE FOR THE FLAG

it." The houses had already ordered, by resolution, at their previous session, that the troops should be kept at their stations in the South until Congress should direct their recall. They now invested General Grant,[1] the General of the Army, with powers which made him, and the army itself, practically independent of the President. He was given sole authority to order the removal or suspension of an officer, and military commanders were explicitly excused from accepting the

[1] See page 220.

opinion of any civil official of the government in the construction of their powers.

Many motives had governed the members of Congress in the adoption of this extraordinary programme. Some had allowed themselves to be driven to radical courses by sheer bitter feeling against the President, who insisted so intemperately upon a course more simple, more moderate, more indulgent to the South; some could reason in statesmanlike fashion enough upon the premises of action, but could propose no alternative plan which seemed practicable or likely to command the support of the rank and file of their party; others were party men, without pretence or refinement of view, their whole temper hardened and embittered by the war and all its unpalatable consequences, and were willing to follow those who were frankly bent upon bringing the South to utter humiliation and penitent submission. Their leaders wished not only to give the negroes political privilege but also to put the white men of the South, for the nonce at any rate, under the negroes' heels. Every black voter, they cynically predicted, would once for all become under such tutelage a Republican voter, and the party which had conquered the South would rule it. Men who looked more scrupulously to their motives saw no way to withstand what they disapproved; were themselves convinced that something must be done to protect the helpless blacks; feared as much as the radicals themselves to see the real leaders of the South again in control; and, with misgivings not a few, lent their aid to the revolutionary programme.

The same months that saw the drastic Act debated and adopted witnessed a tragic revolution at the further south in which the government at Washington also

ARCHDUKE MAXIMILIAN

played its part. While the war for the Union was being fought, the emperor of France, looking to see that war rack the United States to pieces, had sent troops into Mexico and had set up a kingdom there for the Archduke Maximilian of Austria. He had got his opportunity in a way which had seemed for a time to make other great powers of Europe his partners and allies in the conquest. The closing days of the year 1857 had brought political upheaval and sharp civil war upon Mexico, which had resulted within two years in making Juarez, a Zapoteca Indian of singular capacity, master of the country. Juarez had not only confiscated the property of the church, but had also suspended by decree the payment of foreign debts, the debt of the Mexican nation itself included; and that decree had led, late in 1861, to a demonstration in force upon his coasts by the three nations, England, France, and Spain, who were Mexico's principal creditors. England and Spain would consent to do no more than was necessary to enforce the just claims of their citizens, and Napoleon had agreed to be governed by the terms of co-operation which they prescribed: the seizure, it might be, of a custom house or two, but no serious stroke against the sovereignty of the country. From the first, nevertheless, he had meant to disregard his engagements in the matter. He had long dreamed of conquest there in the south, and saw the time come now, as he thought, when he need fear no enforcement of the Monroe doctrine against him by the distracted government at the north. In despite of protests, he sent an army of conquest to Mexico, and, postponing open possession by France, put the Archduke Maximilian in the usurped place of authority, keeping his armies there to secure his throne and the

predominance of France. The government at Washington protested but could do nothing more. The usurped throne stood, the armies of France remained, until

NAPOLEON III.

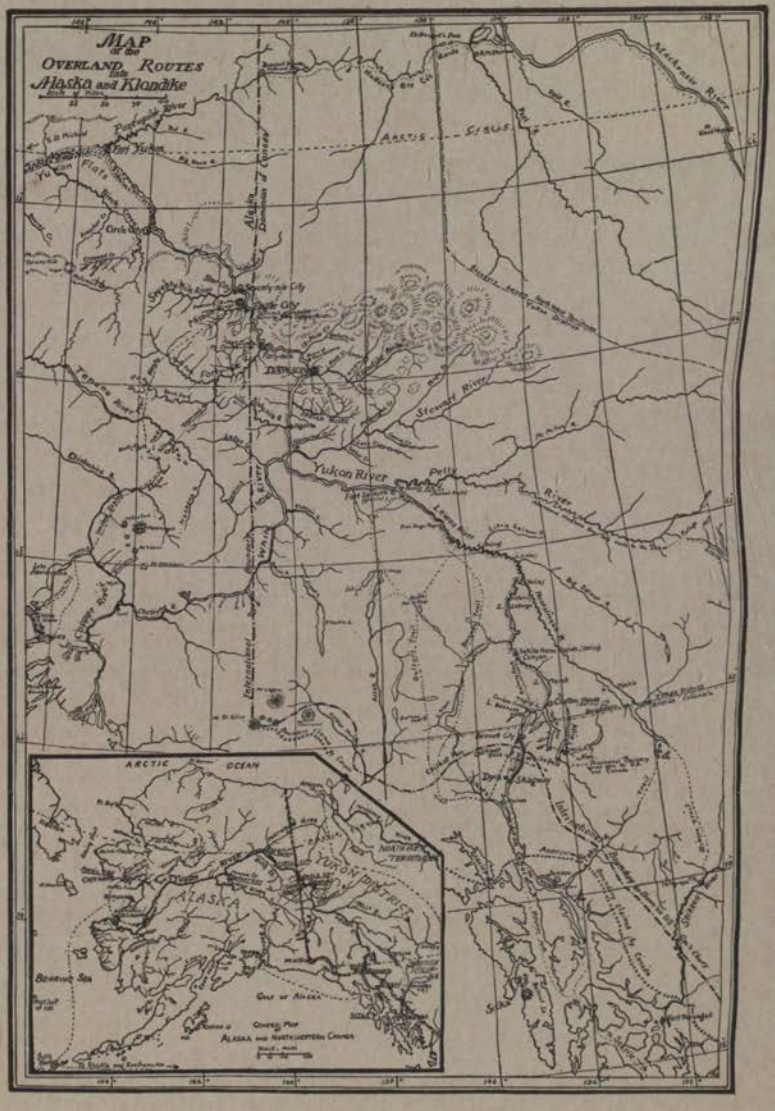
the war for the Union closed and the hands of the President were free. Then the protests from Washington took another tone and meaning, which Louis Napoleon was not self-deceived enough to suppose he could ignore.

American troops began to be massed in the neighborhood of the Mexican frontier, near the familiar ground of General Taylor's movements twenty years before; and the French government saw that it must yield. The French troops were withdrawn, and Maximilian was left to shape his fortunes alone.[1] He was a man of high spirit, not apt to yield upon any point of honor, mindful of what he conceived to be his duty though he mistook it: a man of character, resolved to stand by his throne even though the French withdrew. The resolution cost him his life. Though he gathered a party about him, they were beaten by the partisans of Juarez. He was court-martialled, condemned, and shot. The melodramatic play which the histrionic genius of Napoleon had planned turned out a genuine tragedy, and a noble gentleman made a pitiful ending.

The same month that witnessed the withdrawal of the troops of France from Mexico saw final arrangements made for the withdrawal of Russia from the Pacific coast of North America. On the 30th of March, 1867, a treaty was agreed upon between Mr. Seward and the Russian minister at Washington for the sale of Alaska to the United States for the sum of seven million two hundred thousand dollars in gold.[2] In May the treaty was ratified; and in the following October formal transfer of the great territory was effected. Mr. Monroe had checked the movement of Russian power southward upon the Pacific coast by his message of 1823, and in the forty odd years which had elapsed since that notable announcement of the supremacy of the United States in the western hemisphere the government at St. Petersburg had grown very indifferent to the retention of the bleak fragment of America

[1] See page 216.

[2] See page 210.

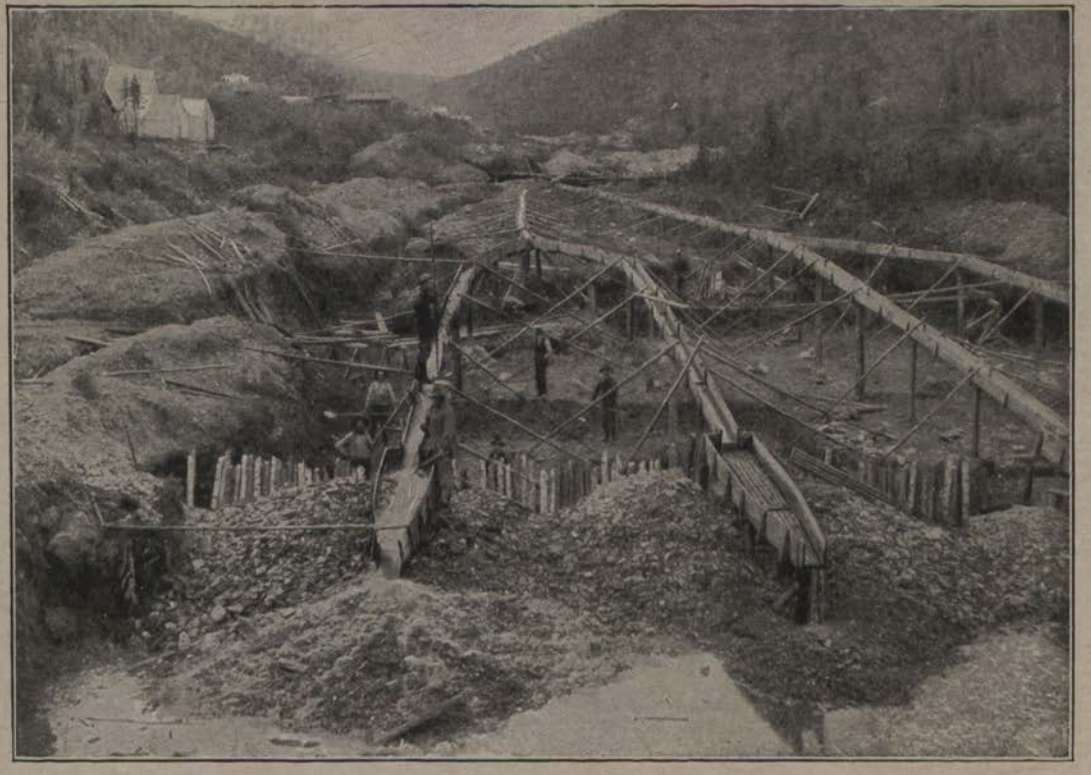


MAP OF ALASKA SHOWING THE GOLD-BEARING REGION

left in its hands,—so far away, so difficult, it might be, of defence. Informal communications in regard to its sale had passed between the two governments so long ago as 1859. Russia was anxious to sell; and the final purchase of 1867 was easily arranged for. There was a certain dramatic consistency in the association of the purchase of Alaska with the forced "withdrawal" of the French from Mexico. They stood together as logical consequences of the Monroe doctrine, whose avowed object had been to keep the American continents free from the control of European monarchies.

The deep effects wrought by Mr. Stevens's policy of Thorough in the southern States worked themselves out more slowly than the tragedy in Mexico, but with no less revolutionary force. Its operation brought on as profound a social upheaval as its most extreme advocates could have desired. The natural leaders of the South either would not take the oath prescribed or were excluded from the right to enroll themselves as voters by the very terms of the Reconstruction Act.[1] The negroes were the chief voters. The conventions which they chose and the governments which those conventions set up were constituted to secure them power. In Virginia, Mississippi, and Texas, after the conventions had acted, the white voters rallied strong enough at the polls, as it turned out, to defeat the constitutions they had framed when they were submitted for ratification; but they were only kept so much the longer under military government, and were obliged to accept them at last. In Georgia the new constitution was adopted; but the statutes of the reconstituted State debarred negroes from holding office, and Congress

[1] See page 196.



SLUICE-WASHING FOR GOLD IN THE KLONDIKE

would not admit her to representation so long as those statutes stood unrepealed. In the Carolinas, in Florida, in Alabama, Arkansas, and Louisiana nothing stayed the execution of the congressional plan, and by midsummer, 1868, Congress was ready to readmit those States to representation. But South Carolina, Louisiana, and Florida were utterly given over in the process to the government of adventurers.

Negroes constituted the majority of their electorates; but political power gave them no advantage of their own. Adventurers swarmed out of the North to cozen, beguile, and use them. These men, mere "carpet baggers" for the most part, who brought nothing with them, and had nothing to bring, but a change of clothing and their wits, became the new masters of the blacks. They gained the confidence of the negroes, obtained for themselves the more lucrative offices, and lived upon the public treasury, public contracts, and their easy control of affairs. For the negroes there was nothing but occasional allotments of abandoned or forfeited land, the pay of petty offices, a *per diem* allowance as members of the conventions and the state legislatures which their new masters made business for, or the wages of servants in the various offices of administration. Their ignorance and credulity made them easy dupes. A petty favor, a slender stipend, a trifling perquisite, a bit of poor land, a piece of money satisfied or silenced them. It was enough, for the rest, to play upon their passions. They were easily taught to hate the men who had once held them in slavery, and to follow blindly the political party which had brought on the war of their emancipation.

There were soon lands enough and to spare out of

which to make small gifts to them without sacrifice of gain on the part of their new masters. In Mississippi, before the work of the carpet baggers was done, six hundred and forty thousand acres of land had been forfeited for taxes, twenty *per cent.* of the total acreage of the State. The state tax levy for 1871 was four times as great as the levy for 1869 had been; that for 1873 eight times as great; that for 1874 fourteen times. The impoverished planters could not carry the intolerable burden of taxes, and gave their lands up to be sold by the sheriff. There were few who could buy. The lands lay waste and neglected or were parcelled out at nominal rates among the negroes. In South Carolina the taxes of 1871 aggregated $2,000,000 as against a total of $400,000 in 1860, though the taxable values of the State were but $184,000,000 in 1871 and had been $490,000,000 in 1860. There were soon lands to be had for the asking wherever the tax gatherer of the new governments had pressed his claims. The assessed valuation of property in the city of New Orleans sank, during the eight years of carpet-bag rule, from $146,718,790 to $88,613,930. Four years and a half of "reconstruction" cost Louisiana $106,020,337. The demoralization of affairs in Louisiana had begun in 1862, when General Butler took possession of the city of New Orleans. The rich spoils of the place had proved too much for the principles of the men intrusted with the management of her affairs in times when law was silent; and the political adventurers who came out of the North to take charge of the new government set up under Mr. Stevens's plan of reconstruction found the work they had come to do already begun.

Taxes, of course, did not suffice. Enormous debts

were piled up to satisfy the adventurers. The cases of Louisiana and South Carolina were no doubt the worst, but other States suffered in proportion to the opportunities they afforded for safe depredation. In 1868 the debt of South Carolina had been $5,000,000; in 1872 it was nearly $30,000,000. The debt of Louisiana

Benj. F. Butler

BENJAMIN FRANKLIN BUTLER

in 1868 had been between six and seven millions; in 1872 it was $50,000,000. Where the new rulers acted with less assurance and immunity or with smaller resources at hand, debts grew more slowly, but the methods of spoliation were everywhere much the same; and with the rise of debts went always the disappearance of all assets wherewith to pay them. Treasuries were

swept clean. Immense grants were made in aid of public works which were never completed, sometimes not even begun. Railways were subsidized, and the subsidies, by one device or another, converted into outright gifts, which went into the pockets of those who had procured them, not into the building or equipment of the road. A vast burden of debt was piled up for coming generations to carry; the present generation was much too poor to pay anything.

The real figures of the ruin wrought no man could get at. It was not to be expressed in state taxes or state debts. The increase in the expenditure and indebtedness of counties and towns, of school districts and cities, represented an aggregate greater even than that of the ruinous sums which had drained the treasuries and mortgaged the resources of the governments of the States; and men saw with their own eyes what was going on at their own doors. What was afoot at the capitals of their States they only read of in the newspapers or heard retailed in the gossip of the street, but the affairs of their own villages and country-sides they saw corrupted, mismanaged, made base use of under their very eyes. There the negroes themselves were the office holders, men who could not so much as write their names and who knew none of the uses of authority except its insolence. It was there that the policy of the congressional leaders wrought its perfect work of fear, demoralization, disgust, and social revolution.

No one who thought justly or tolerantly could think that this veritable overthrow of civilization in the South had been foreseen or desired by the men who had followed Mr. Stevens and Mr. Wade and Mr. Morton in

their policy of rule or ruin. That handful of leaders it was, however, hard to acquit of the charge of knowing and intending the ruinous consequences of what they had planned. They would take counsel of moderation neither from northern men nor from southern. They were proof against both fact and reason in their determination to "put the white South under the heel of the black South." They did not know the region with which they were dealing. Northern men who did know it tried to inform them of its character and of the danger and folly of what they were undertaking; but they refused to be informed, did not care to know, were in any case fixed upon the accomplishment of a single object. Their colleagues, their followers, kept, many of them, a cooler mind, a more prudent way of thought, but could not withstand them. They, too, were ignorant of the South. They saw but a little way into the future, had no means of calculating what the effects of these drastic measures would be upon the life and action of the South, and lacked even the knowledge of mere human nature which might have served them instead of an acquaintance with the actual men they were dealing with. They had not foreseen that to give the suffrage to the negroes and withhold it from the more capable white men would bestow political power, not upon the negroes, but upon white adventurers, as much the enemies of the one race as of the other. In that day of passion, indeed, they had not stopped to speculate what the effects would be. Their object had been to give the negro political power in order that he might defend his own rights, as voters everywhere else might defend theirs. They had not recked of consequences; for a little while they had not cared what they might be.

AN EXCITING DAY IN THE BOARD OF BROKERS, "ON THE RISE," NEW YORK CITY, 1862

They had prepared the way for the ruin of the South, but they had hardly planned to ruin it.

News of what was going on in the South was not slow to make its way to the ears of the country at large; but the editors of northern newspapers at first refused to credit what they heard. Men dismissed the reports with an easy laugh, as simply the South's cry of exasperation that the negro should have been given the ballot and the power to rule. But incredulity grew more and more difficult; the accounts of what was going on grew more and more circumstantial; proof came close upon the heels of rumor; and opinion began to veer unsteadily. It shifted not only because of the disquieting news that came from the South, but also because of the desperate strain the government itself was put to at Washington by reason of the open breach and warfare between the President and Congress. The masterful men who led the congressional majority had not contented themselves with putting such laws as they chose upon the statute books despite the President's vetoes; they had gone much further and taken steps to make the President a mere figurehead even in administration, and put themselves in virtual control of the executive *personnel* of the government. Along with the Reconstruction Act of 1867, which placed the governments of the southern States in their hands, they had forced through, over the President's veto, a Tenure of Office Act[1] which deprived the President of the power of removal from office except by the advice and with the consent of the Senate. It gave even to cabinet officers a fixed tenure of four years. They could be dismissed within the four years of the presidential term only by the consent of the Senate.

[1] See page 182.

Here was a deliberate reversal of the constitutional practice of more than two generations. The debates of the first Congress under the constitution, the views of the statesmen who had framed the law of the government, the opinions of lawyers, the unbroken practice of sixteen presidents had been thought to establish beyond question the right of the chief magistrate to remove federal administrative officials at his pleasure. Congress, it seemed, was ready to override law and precedent alike to make good its mastery.

Mr. Johnson was not the man to decline such a challenge. After fighting the policy of Congress in matters purely legislative with caustic vetoes and bitter condemnation he was not likely to submit to have his very powers of administration stripped away without resistance carried to the utmost bounds. He had kept Mr. Lincoln's cabinet; but he had not relished the attitude of one or two of its members towards him. It had been hard enough for Mr. Lincoln, even, with his shrewd and kindly insight into the real nature of the man and his love for the sheer force and audacity with which he administered his critical office in days almost of revolution, to endure the wilful arrogance of Edwin M. Stanton, the Secretary of War; it was quite impossible for Mr. Johnson to endure it. It was something more than wilfulness that Mr. Stanton showed in his relations with Mr. Johnson. He became openly a partisan of the radical leaders in Congress, and set himself to defeat the President at his own council table. He administered the affairs of his Department as if he considered it an independent branch of the government; carried out the instructions of the President with regard to the South in a way to discredit as much as possible

the policy which they embodied; and seemed bent upon maintaining the Department of War as a sort of counterpoise to the presidency itself until a man acceptable to the Republican majority in the houses should come to the head of the government. Mr. Johnson had wished from the first to be rid of him, but had wished also to preserve unbroken the tradition of policy handed on to him from Mr. Lincoln, and had hesitated to ask for his resignation. He determined now to make Mr. Stanton's case a case for the test of his prerogative and of the Tenure of Office Act which sought to curtail it. In August (1867), during the congressional recess, he demanded Mr. Stanton's resignation.[1] Mr. Stanton refused to resign, and the President suspended him from office, as the terms of the Act itself permitted, putting General Grant in his place. When Congress reassembled in December the Senate refused to sanction the removal, and Mr. Stanton resumed his office. The President once again issued an order for his removal, and Mr. Stanton again refused to quit his office, appealing to the House for protection. On February 24, 1868, the House voted to impeach the President for high crimes and misdemeanors.[2]

His only offences were that he had added to his vetoes unmeasured abuse of the houses and their leaders and that he had disregarded an Act of Congress in his removal of Mr. Stanton; but the impeachment had been resolved upon as a political, not as a judicial, process of removal, in passion, not in cool judgment,—in the spirit of the men who in Mr. Jefferson's day had sought to make it a means of party mastery against the judges of the federal courts. From the 5th of March to the 16th of May the unedifying trial dragged on. Even

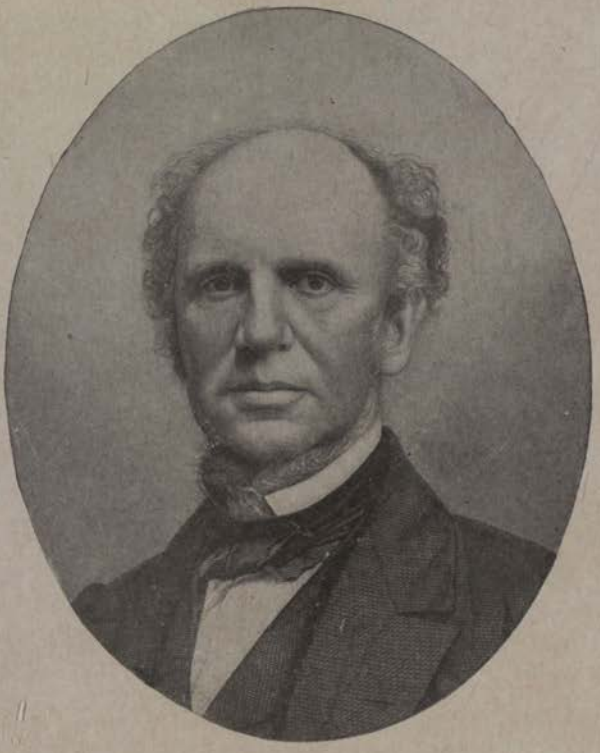
[1] See page 222.

[2] See page 227.

while it pended the President went incorrigibly up and down the country speaking with his accustomed unguarded passion and open defiance of every one concerned against him in the long series of controversies which had brought the trial on. Fortunately there were men among the Republicans of the Senate who put their consciences as lawyers and their scruples as statesmen before their allegiance to their party leaders. On the 16th of May the impeachment broke down. The first test vote was taken; seven Republican senators voted with the ten Democrats of the upper house against the thirty-five Republican senators who cast their votes for conviction. The managers had failed to secure the two-thirds necessary to convict; and a verdict of acquittal was entered. The Secretary of War resigned his office, and the contest was over.

It was, it turned out, the President's noisy, unapplauded exit from public trust and employment. Four days after the failure of the impeachment proceedings the Republican nominating convention met at Chicago which was to name a candidate for the presidential term to begin on the 4th of March, 1869. It nominated General Grant, unanimously and with genuine enthusiasm, because he was a faithful officer and no politician. Mr. Johnson had shown himself a Democrat, not a Republican, as party lines had been drawn upon the issue of reconstruction; but the Democrats wanted him for another term as little as the Republicans did. Their convention nominated Mr. Horatio Seymour, of New York, a man of high character and unimpeachable reputation in affairs, and went to the country on the question of reconstruction. The result no one seriously doubted from the first. Few voters in the Republican

ranks at the North had as yet suffered themselves to see anything in Mr. Stevens's plan of Thorough to daunt either their taste or their principles; the votes



Horatio Seymour HORATIO SEYMOUR

of most of the southern States then reconstructed were turned over to the Republican candidate, as expected, by the negro voters; and Mr. Seymour obtained but eighty ballots in the electoral college to General Grant's two hundred and fourteen. It was a significant thing,

nevertheless, that in a total popular vote of more than 5,700,000 General Grant's majority was but a little more than three hundred thousand. Mr. Seymour had carried New York and New Jersey at the centre of the old Union. A slight shifting of the winds of opinion might bring weather on which the policy of reconstruction devised in Congress could not survive. But a more normal season seemed at hand. The country was to have at least peace at its capital, a President trusted by the leaders of Congress. Mr. Johnson's tempestuous and troubled term was over, and a plain soldier again at the head of the government.

Congress did not wait for General Grant's inauguration,[1] however, to go forward with its policy of reconstruction. Before the end of February, 1869 (February 25th), it proposed to the States a Fifteenth Amendment intended to lay in the constitution itself the foundations of negro suffrage which had as yet only the support of the Reconstruction Acts of 1867, mere statutes. "The right of citizens of the United States to vote," so ran its terms, "shall not be denied or abridged by the United States or any State on account of race, color, or previous condition of servitude." New Jersey, Delaware, Maryland, Kentucky, California, and Oregon rejected it; Tennessee did not act upon it; but thirty of the thirty-seven States accepted it, and it became part of the constitution. Virginia, Georgia, Mississippi, and Texas had not yet been reconstructed to the satisfaction of Congress; the acceptance of this new Amendment, accordingly, the enactment in perpetuity of the principle of the Reconstruction Act, was made a condition precedent to their readmission to Congress, as the acceptance of the Thirteenth Amendment, which

[1] See page 242.

gave the negroes their freedom, and of the Fourteenth, which made them citizens of the United States and of the States of their residence, had been. This, too, was to be part of the hard-driven bargain of reconstruction before the Republican leaders would be satisfied. The dominance of the negroes in the South was to be made a principle of the very constitution of the Union. A long year went by before three fourths of the States had ratified the radical Amendment, but the necessary votes came in at last, and on the 30th of March, 1870, the new article was officially declared in force.

The price of the policy to which it gave the final touch of permanence was the temporary disintegration of southern society and the utter, apparently the irretrievable, alienation of the South from the political party whose mastery it had been Mr. Stevens's chief aim to perpetuate. The white men of the South were aroused by the mere instinct of self-preservation to rid themselves, by fair means or foul, of the intolerable burden of governments sustained by the votes of ignorant negroes and conducted in the interest of adventurers: governments whose incredible debts were incurred that thieves might be enriched, whose increasing loans and taxes went to no public use but into the pockets of party managers and corrupt contractors. There was no place of open action or of constitutional agitation, under the terms of reconstruction, for the men who were the real leaders of the southern communities. Its restrictions shut white men of the older order out from the suffrage even. They could act only by private combination, by private means, as a force outside the government, hostile to it, proscribed by it, of whom opposition and bitter resistance was expected, and expected

with defiance. Sober men kept their heads; prudent men saw how sad an increase of passion would come out of hasty counsels of strife, an open grapple between those outlawed and those appointed to govern. Men whom experience had chastened saw that only the slow processes of opinion could mend the unutterable errors of a time like that. But there were men to whom counsels of prudence seemed as ineffectual as they were unpalatable, men who could not sit still and suffer what was now put upon them. It was folly for them to give rein to their impulses; it was impossible for them to do nothing.

They took the law into their own hands, and began to attempt by intimidation what they were not allowed to attempt by the ballot or by any ordered course of public action. They began to do by secret concert and association what they could not do in avowed parties. Almost by accident a way was found to succeed which led insensibly farther and farther afield into the ways of violence and outlawry. In May, 1866, a little group of young men in the Tennessee village of Pulaski, finding time hang heavy on their hands after the excitements of the field, so lately abandoned, formed a secret club for the mere pleasure of association, for private amusement,—for anything that might promise to break the monotony of the too quiet place, as their wits might work upon the matter, and one of their number suggested that they call themselves the *Kuklos*,[1] the Circle. Secrecy and mystery were at the heart of the pranks they planned: secrecy with regard to the membership of their Circle, secrecy with regard to the place and the objects of its meetings; and the mystery of disguise and of silent parade when the comrades rode abroad

[1] See pages 277, 284.

at night when the moon was up: a white mask, a tall cardboard hat, the figures of man and horse sheeted like a ghost, and the horses' feet muffled to move without sound of their approach. It was the delightful discovery of the thrill of awesome fear, the woeful looking for of calamity that swept through the country-sides as they moved from place to place upon their silent visitations, coming no man could say whence, going upon no man knew what errand, that put thought of mischief into the minds of the frolicking comrades. It threw the negroes into a very ecstasy of panic to see these sheeted "Ku Klux" move near them in the shrouded night; and their comic fear stimulated the lads who excited it to many an extravagant prank and mummery. No one knew or could discover who the masked players were; no one could say whether they meant serious or only innocent mischief; and the zest of the business lay in keeping the secret close.

Here was a very tempting and dangerous instrument of power for days of disorder and social upheaval, when law seemed set aside by the very government itself, and outsiders, adventurers, were in the seats of authority, the poor negroes, and white men without honor, their only partisans. Year by year the organization spread, from county to county, from State to State. Every country-side wished to have its own Ku Klux, founded in secrecy and mystery like the mother "Den" at Pulaski, until at last there had sprung into existence a great *Ku Klux Klan*,[1] an "Invisible Empire of the South," bound together in loose organization to protect the southern country from some of the ugliest hazards of a time of revolution. The objects of the mysterious brotherhood grew serious fast enough. It passed from

[1] See page 277.

jest to earnest. Men took hold of it who rejoiced to find in it a new instrument of political power: men half outlawed, denied the suffrage, without hope of justice

TWO MEMBERS OF THE KU KLUX KLAN

in the courts, who meant to take this means to make their will felt. "They were to protect their people from indignities and wrongs; to succor the suffering, particularly the families of dead confederate soldiers"; to enforce what they conceived to be the real laws of

their States "and defend the constitution of the United States and all laws passed in conformity thereto; to aid in executing all constitutional laws and protect the people from unlawful seizures and from trial otherwise than by jury." Similar secret orders grew up alongside the great Klan, or in States where its "dens" had not been established: Knights of the White Camellia, Pale Faces, Constitutional Union Guards, the White Brotherhood, to serve the same ends by the same means. The Knights of the White Camellia, founded in New Orleans in the winter of 1867–1868, spread their organization abroad more widely even than the Ku Klux Klan.

It was impossible to keep such a power in hand. Sober men governed the counsels and moderated the plans of these roving knights errant; but it was lawless work at best. They had set themselves, after the first year or two of mere mischievous frolic had passed, to right a disordered society through the power of fear. Men of hot passions who could not always be restrained carried their plans into effect. Reckless men not of their order, malicious fellows of the baser sort who did not feel the compulsions of honor and who had private grudges to satisfy, imitated their disguises and borrowed their methods. What was done passed beyond mere mummery, mere visiting the glimpses of the moon and making night hideous, that they might cause mere "fools of nature horridly to shake their disposition with thoughts beyond the reaches of their souls." It became the chief object of the night-riding comrades to silence or drive from the country the principal mischief-makers of the reconstruction régime, whether white or black. The negroes were generally easy

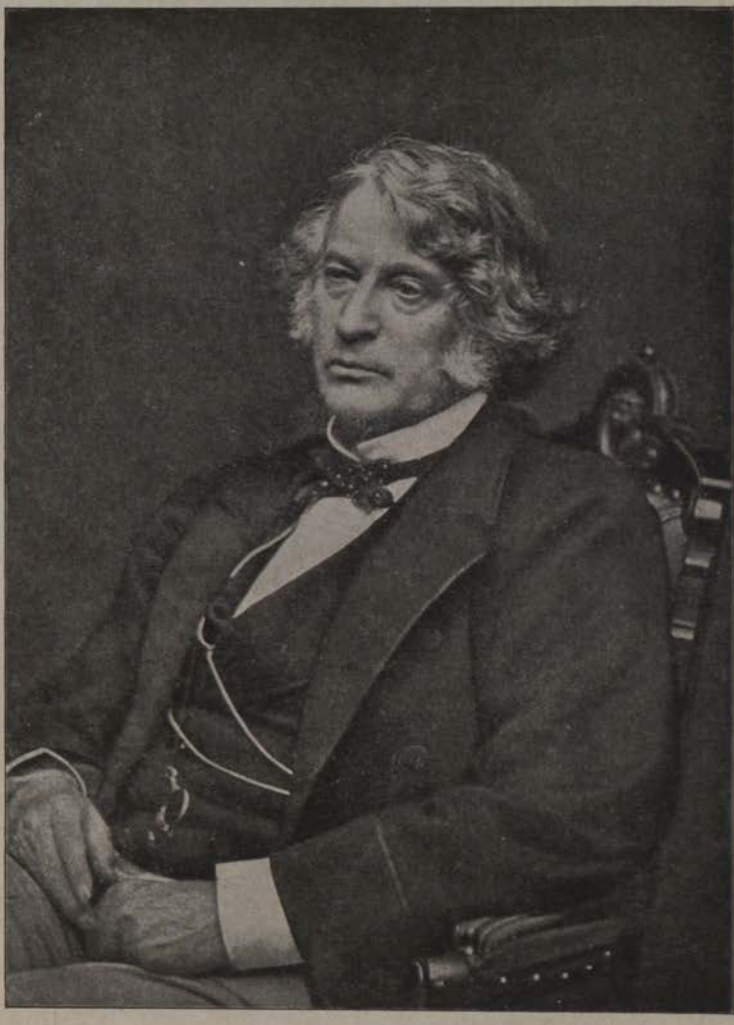
enough to deal with: a thorough fright usually disposed them to make utter submission, resign their parts in affairs, leave the country,—do anything their ghostly visitors demanded. But white men were less tractable; and here and there even a negro ignored or defied them. The regulators would not always threaten and never execute their threats. They backed their commands, when need arose, with violence. Houses were surrounded in the night and burned, and the inmates shot as they fled, as in the dreadful days of border warfare. Men were dragged from their houses and tarred and feathered. Some who defied the vigilant visitors came mysteriously to some sudden death.

The more ardent regulators made no nice discriminations. All northern white men or women who came into the South to work among the negroes, though they were but school teachers, were in danger of their enmity and silent onset. Many of the teachers who worked among the negroes did in fact do mischief as deep as any political adventurer. The lessons taught in their schools seemed to be lessons of self-assertion against the whites: they seemed too often to train their pupils to be aggressive Republican politicians and mischief-makers between the races. The innocent and enlightened among them suffered in the general opinion from the errors of those who deliberately sowed discord; and the regulators too often failed to discriminate between those who made trouble and those who fulfilled their gentle errand in peace and good temper.

The ranks of those who flocked into the South to take part in the reconstruction of the States and the habilitation of the negro for his life of freedom were strangely mixed of good and bad. The teachers came

upon an errand of mercy and humanity, but came too many of them with bitter thoughts and intolerant purpose against the white people of the South, upon whom, as they did not reflect, the fortunes of the negro in any case depended. The politicians came for the most part like a predatory horde; but here and there emerged a man of integrity, of principle, of wise and moderate counsel, who in the long run won the confidence even of those who hated with an ineradicable hatred the party and the practice of federal control which he represented. The Ku Klux and those who masqueraded in their guise struck at first only at those who made palpable mischief between the races or set just law aside to make themselves masters; but their work grew under their hands, and their zest for it. Brutal crimes were committed; the innocent suffered with the guilty; a reign of terror was brought on, and society was infinitely more disturbed than defended. Law seemed oftentimes given over. The right to the writ of *habeas corpus* was again and again suspended to check the lawless work. At least one governor of the reconstruction period sent to his adjutant general lists of leading citizens proscribed, with the suggestion that those whose names were specially marked should be tried by court martial and executed at once before the use of the writ should be restored. One lawless force seemed in contest with another.

Such was the disturbing subject matter of the news which crept north during the first year of General Grant's administration as President. It found business as well as politics moved by its own uneasy excitements. The year 1869 witnessed an attempt on the part of a small group of brokers to corner the gold market, sin-



Charles Sumner

CHARLES SUMNER

gularly audacious, singularly fatal in its consequences to the business of the country. Their operations culminated on a certain "Black Friday," the 24th of September, 1869. All foreign trade balances, all pay-

SCENE IN THE GOLD ROOM, NEW YORK CITY, ON "BLACK FRIDAY"

ments of customs duties at the ports, required gold, and the Wall Street firm of Smith, Gould, Martin & Co., in association with a few others, undertook nothing less than to get control of all the gold in the country that was available for such purposes, outside the Treasury of the United States. They sought to keep the

gold in the Treasury out of their way in the market by interesting friends of the President to ply him with arguments based upon public policy to which they thought he would be amenable, and hurried their operations to a crisis while the arguments told; bought gold on every hand, at any figures; and forced its price up, up, until the end came on that Friday which the Street was never to forget. On that day they had the prices and the stock of gold almost at their disposal when the news came that the President had ordered the subtreasury of the United States at New York to sell gold from the vaults of the government for the relief of the market and it was known that the hundred million which the government held had begun to be released. Then the crash came, and the ruin the operators had wrought, for themselves and others, was laid bare. Trade at home as well as abroad depended upon the available stores of gold. That desperate speculation had upset credit. The movement of the crops halted; foreign trade came to a standstill; the West would not deal with the East; the East could not deal over sea. No man who handled money knew just where he stood. The business of the continent was racked to its centre; and every man who knew the money market knew that it would be many a weary month, it might be many a weary year, before the demoralizing effects of that day would pass away. The operators who had brought the panic on shielded themselves in the courts, and even the immediate ruin they had wrought upon their victims could not be repaired.

There were abundant crops, and business lacked nothing to make it prosperous but a steady money market. The census taken in 1870 showed the popula-

tion of the country increased by more than seven millions since 1860, for all it had been a decade filled with death and war. Even the South had added some eight hundred thousand to her reckoning. Industry went forward at a quiet pace, and the wealth of the country grew in the very season of financial panic. It was the unquiet spirit of adventure that upset affairs. The war had thrown business from its ordinary courses. The huge purchases of the War Department, the unusual peril of the seas so long as the confederate privateers were abroad, the necessary hazards of business while war filled every transaction with conjecture had bred the speculative temper and quickened the instinct for adventurous operations on the grand scale; had made men apt at managing "corners" and reckless what risks they added to the legitimate hazards of trade.

Embarrassments alike of business and of feeling, created by the war and all that had come in its train, cleared very slowly away. Local storm though it was, the war had not failed to send its airs abroad and create international disturbances as well as domestic. It had particularly threatened to bring about serious misunderstandings between England and the United States. Most of the confederate privateers and swift cruisers that had played havoc with the sea-going trade of the United States during the earlier years of the war had been built in English ship yards and had come from English ports. Their arms and equipment had been bought in England. Their officers had waited for them in England, drawing their pay, the while, through English banks. The English government acknowledged itself bound to prevent all overt attempts of its subjects to aid or arm the enemies of a nation

with which it was at peace, and to prevent the use of its ports and waters as a base of naval operations against

Charles Francis Adams CHARLES FRANCIS ADAMS

her; but it did not consider itself bound, as the government of the United States contended that it should, to canvass every case of suspicion in such matters and

detain vessels merely upon reasonable ground of belief that they were intended for uses inconsistent with its neutrality. Mr. Charles Francis Adams, the minister of the United States, had brought every case promptly to the attention of her Majesty's ministers and in more than one case had laid convincing evidence before them of the character and destination of vessels being fitted out in English ship yards for the service of the Confederacy; and the government at Washington could not but connect their slow and indifferent action in the cases submitted, their apparent unwillingness to examine the evidence, their slackness in taking steps to seize the suspected vessels with their manifest friendliness, or at least benevolent neutrality, towards the Confederate States, their recognition of their belligerent rights, their half inclination to accord them full recognition as an independent power. It soon became evident that entire cordiality of feeling between the two governments could not be restored until the matter had been brought to a definite reckoning and final adjustment.

The reckoning came at the very outset of General Grant's administration. Mr. Seward had tried to bring it about while Mr. Johnson was President, but the Senate had rejected the method of settlement he had been willing to adopt, and an arrangement agreeable to both governments was not arrived at until the spring of 1871. In May of that year, a Joint High Commission appointed by the President and the ministers in London and sitting in Washington, agreed upon a treaty, acceptable to the Senate, which referred the claims of the United States against Great Britain on account of the damage inflicted by the *Alabama*, the

Florida, the *Shenandoah*, and all other confederate vessels alleged to have been fitted out in British ports, "generically known as the Alabama claims," to the arbitration of a tribunal of five persons to be named by the President of the United States, the Queen of England, the King of Italy, the President of the Swiss Confederation, and the Emperor of Brazil respectively, and

THE BURNING OF THE JACOB BELL BY THE ALABAMA

to sit at Geneva, in Switzerland.[1] The treaty of Washington,—so it was called,—provided also for the settlement of other matters in dispute between the two governments which touched their permanent interests: the right of American fishermen to catch fish upon the Canadian coasts and of Canadian fishermen to make their catches upon the northern coasts of the United States, and the exact line of boundary between the United States and British North America within the streams which separated them and within the channel

[1] See page 290.

HÔTEL BEAU-RIVAGE GENEVA, HEADQUARTERS OF THE AMERICAN ARBITRATORS

between Vancouver's Island and the continent; but the Alabama claims for the moment seemed to all eyes to stand at the front of the matter. On the 14th of September, 1872, after a three months' hearing, the Geneva tribunal rendered a decision in favor of the United States, only the English member of the court dissenting. It awarded to the United States $15,500,000 in damages. But the strain of the matter had been taken off by the treaty; the decision of the tribunal ended, not a controversy, but a judicial process at the end of controversy.

The strain of domestic politics was enough to withdraw heat from such matters when once they had become mere matters of business. The reconstruction even of those southern States in which the establishment of negro majorities had miscarried and the white voters had mustered strong and stubborn enough to reject the laws Congress tried to thrust upon them (Virginia, Georgia, Mississippi, and Texas) was complete by midsummer, 1870. But the mere completion of the formal process of reconstruction, as planned in Congress, did not mean order or the quiet settlement of affairs in the South. The white men, with whom effective initiative and the real weight of predominance rested in any case, had had their wits quickened and their temper hardened by what the Republican leaders had done. They were shut out from the use of the ballot and from every open and legitimate part in affairs, but they had come at their power in another way. Those who loved mastery and adventure directed the work of the Ku Klux. Those whose tastes and principles made such means unpalatable brought their influence to bear along every line of counsel or of management that

THE FINAL AWARD. THE LAST SITTING OF THE GENEVA CONFERENCE

promised to thrust the carpet bagger out of office and discourage the negro in the use of his vote. Congress saw where they meant to regain their mastery, at the polls, and by what means, the intimidation and control of the negroes without regard to law,—the law thrust upon them, not their own; and hastened to set up a new barrier of statute against them.

In May, 1870, it had passed an Act which put southern elections and the registration of voters in the southern States under the superintendence and virtual control of federal supervisors and marshals, who were empowered to protect all voters in the exercise of their right of suffrage, and whose complaints were to be heard, not by the courts of the States, but by the circuit courts of the United States alone. At its next session it still further strengthened the Act. The forty-second Congress met on the 4th of March, 1871, in extraordinary session, to continue legislation to the same end. Not merely the acts of registration and voting needed to be guarded; every privilege conferred upon the negro as an incident of his new freedom seemed in need of protection: the Republican leaders were determined that the Fourteenth as well as the Fifteenth Amendment[1] should be buttressed about by penal legislation and the whole force of the government, if necessary, brought to bear to put them into effectual execution. A committee of seven senators and fourteen representatives was appointed to inquire into the actual condition of the South and ascertain the facts with regard to the alleged outrages there, and a drastic Act was passed (April 20, 1871) which was meant to crush the Ku Klux Klan[2] and all lawless bands acting after its fashion. Its provisions made such acts, whether of violence or of

[1] See pages 260, 263.

[2] See pages 263, 277.

mere intimidation, as the secret societies of the South had committed conspiracy against the government of the United States, punishable by heavy fines or by imprisonment, or by both fine and imprisonment, and authorized the President, whenever the state authorities were unable or unwilling to prevent or check them, to use the land and naval forces of the federal government for their suppression, as against an insurrection. It authorized him, also, until the close of the next regular session of Congress, to suspend at his pleasure the writ of *habeas corpus* "during the continuance of such rebellion against the United States," in such portions of the southern country as seemed to him most touched by the disorders of the time or most under the control of the secret associations. The Act gave to the federal courts which were empowered to enforce it the right to exclude from their juries persons suspected of sympathizing with those who violated its provisions. It was meant to destroy root and branch the organizations which had set themselves to annul the rights of the negroes. The Act of May, 1870, had made it a criminal offence "to go in disguise upon the highway, or upon the premises of another" by way of conspiracy "to deprive any citizen of his constitutional rights," striking directly at the secret orders and their more lawless imitators.

General Grant used the powers conferred upon him with the energy and directness of a soldier, as Congress had expected. On the 12th of October, 1871,[1] singling out nine counties of South Carolina in which such acts as Congress had aimed its blow at were most frequent, he called upon the members of all illegal associations within them to surrender their arms and disguises

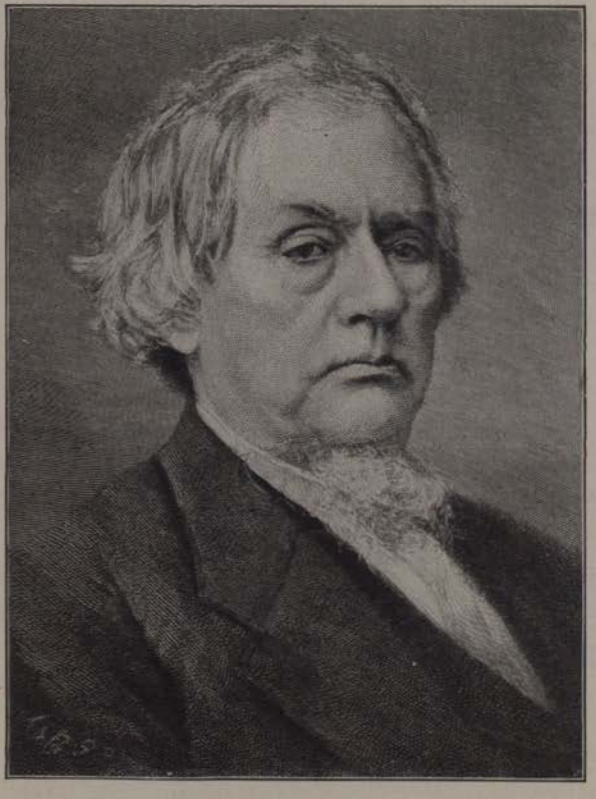
[1] See page 271.

within five days. Five days afterwards, his proclamation not having been heeded, he suspended the privilege of the writ of *habeas corpus* in the counties named,[1] and two hundred arrests, followed promptly enough by prosecution and conviction, were immediately made. It was easy, with the powers bestowed by the Act upon the federal judges, to push trials to a quick consummation, and to eliminate all reasonable chance of escaping conviction. And the action of the President in South Carolina was but a beginning of his action throughout the South. Everywhere that the secret orders or the reckless fellows who plied their means of intimidation without scruple or principle or public object had been most active arrests and prosecutions came thick and fast; and within but a little more than a year an end was made of the business.

But, though the Act had worked its drastic remedy, peace, accommodation, the rational relationships between race and race upon which alone a reasonable order of life could rest, were, it might be, further off than ever. The joint committee of Senate and House which Congress had appointed to accompany the execution of the Act with a thorough-going inquiry into the actual condition of the South filled thirteen volumes with the reports of their investigations. They found no justification for what the white men of the South, desperate to free themselves from the rule of negroes and adventurers, had done; they drew forth from their witnesses little but what was dark and of evil omen; they made no serious attempt to understand the causes which underlay conspiracy and chronic disorder; they only laid before the country a mass of undigested testimony, crude, unverifiable, and uttered their expected

[1] See page 273.

condemnation of a people at bay. But the country began to see for itself the real philosophy of the painful story. Significant rifts began to show themselves



R. Toombs ROBERT TOOMBS

in opinion. It began to be plainly evident to all who were willing to look facts in the face what Mr. Stevens and his radical colleagues had really accomplished by their policy of Thorough. They had made the

white men of the South implacable enemies, not of the Union, but of the party that had saved the Union and which now carried its affairs in its hands. Their reconstruction, whose object had been, not the rehabilitation of the southern governments, but the political enfranchisement of the negroes, had wrought a work of bitterness incomparably deeper, incomparably more difficult to undo, than the mere effects of war and a virtual conquest of arms. They had made the ascendency of the party of the Union seem to the men of the South nothing less than the corruption and destruction of their society, a reign of ignorance, a régime of power basely used; and this revolt, these secret orders with their ugly work of violence and terror, these infinite, desperate shifts to be rid of the burden and nightmare of what had been put upon them, were the consequence.

The reactions of opinion were slow. The country, though it grew uneasy, was not yet ready to put itself in the hands of the Democratic party, which had opposed the war, and which still suffered in the thought of the voters the discredit of its old alliance with the slave owners. The presidential election of 1872 came and went without disturbing the supremacy of the majority. But it brought to light many things that gravely disquieted the Republican leaders. Thoughtful and influential men whose support they could ill afford to lose, were, they perceived, being alienated from them. It was a serious matter that their plans in the South had so miscarried and required even yet the policing of whole districts by armed men. Evidently nothing but force sustained them, or could sustain them; and no humane or thoughtful man could look

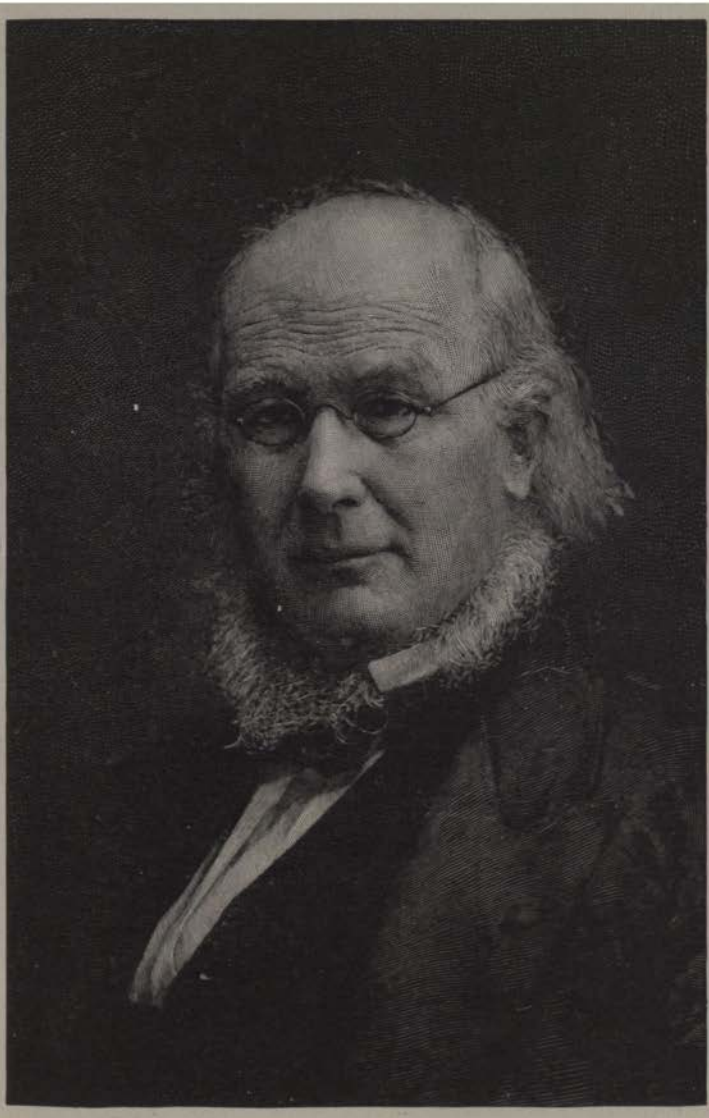
with complaisance upon a perpetual subjection of the South to federal arms. The administration of southern affairs from Washington wore, moreover, from another angle an unhandsome appearance. Its objects seemed to be, not so much the enforcement of constitutional rights as the aggrandizement of personal adherents of the President and of the close partisans of the Republican leaders who were most in his confidence. The troublesome, unwholesome matter of official patronage played too prominent a part in the motives of the government, and made the treatment of southern affairs seem only a phase of the general "spoils system" of appointment to office which seemed to have fastened itself upon the party organization of the country.

It was bad enough that the federal offices should be emptied wholesale upon a change of parties in the administration, to make room for the partisans of the successful leaders, as they had been when Mr. Lincoln came to the presidency,—as they had been at every change of parties since General Jackson's day; but that had at least given political solidarity to the administration and made the President in some sort master in the counsels of his party. Now a new and sinister sign was added that the official patronage of the government was to be used, not to strengthen and solidify the administration, but to give secure political power to local managers who were to be permitted to dictate to the President whom he should appoint to office. In one State after another there emerged some one man, —a senator, a representative, a federal official of high office,—who was recognized as the President's only adviser with regard to all appointments within his State; and all federal office holders within that State

became by natural consequence his sycophants. In the South these petty masters were too often the political adventurers who had been drawn to their places of preferment by the temptations of the process of reconstruction, when the negroes waited to be used, or men who were themselves the subservient tools of politicians in Washington. General Grant himself felt the demoralization of the system very keenly and desired its radical reformation, but was easily imposed upon by men whom he trusted, and trusted men without discrimination. He had great simplicity of character. He judged men shrewdly enough when he saw them in action, but had little insight into their real motives and character when associated with them in counsel. It seemed to him unnatural, unfaithful, as it had seemed to General Jackson, to doubt or distrust his friends, —not so much because he was a soldier and ready to stand by his comrades with stout allegiance as because, like most men of simple nature, he deemed others as honest as himself, and suspicion a thing for rogues to harbor.

The President had alienated, moreover, certain men whose support he could not afford to dispense with. He had set his heart upon the annexation of Santo Domingo[1] to the United States, and had come to an open breach with Mr. Charles Sumner, chairman of the Senate Committee on Foreign Affairs upon the matter. That and many other things, great and small, had driven Mr. Horace Greeley also into opposition, the erratic, trenchant editor of the New York *Tribune*. Mr. Sumner seemed to a great many men in the country to stand for the older, better, more elevated traditions of the Republican party, which General Grant seemed

[1] See page 247.

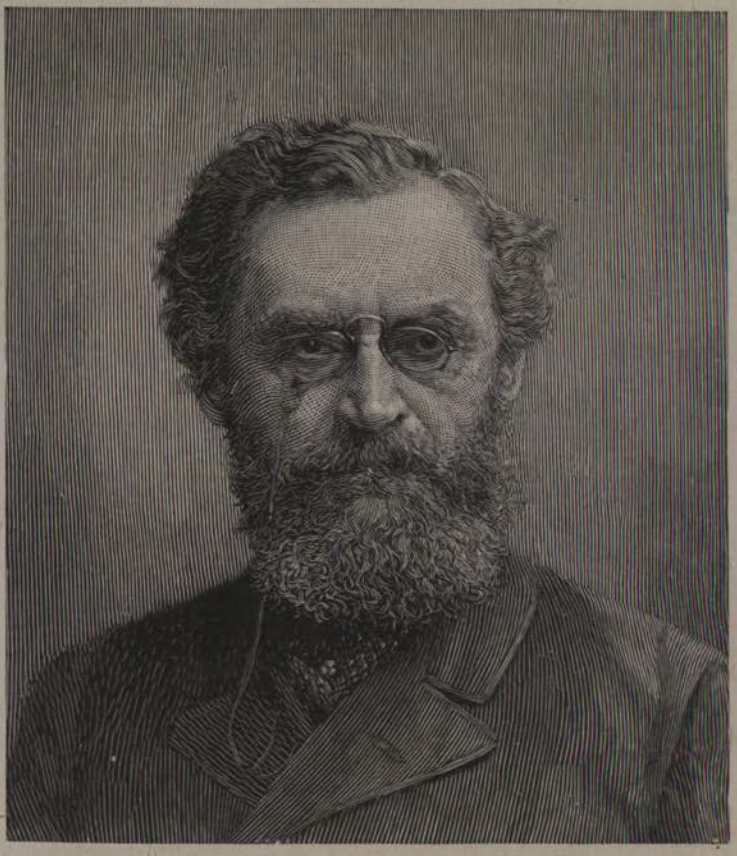


Horace Greeley

HORACE GREELEY

to be fast drawing to the lower levels of self-aggrandizement and power. Mr. Greeley wrote editorials every day which told like sharp blows upon the consciousness of all the thousands of plain men the country-sides through who looked to the *Tribune* for guidance as to an oracle. It was no light matter to have such men set against the administration.

It was the more embarrassing because there were large matters of policy, as well as scattered items of mistaken action and vague fears for the civil service, upon which an opposition could concentrate. At the heart of these was the disfranchisement of the white men of the South. It was plain to see that the troubles in the southern States arose out of the exclusion of the better whites from the electoral suffrage no less than from the admission of the most ignorant blacks. It was no doubt in part because the South could not use its real leaders in open political contest that impatient men and radicals had been driven to use secret combination and all the ugly weapons of intimidation. The processes of reconstruction were made by those who managed them to depend as much upon withholding the suffrage from all who had participated with any touch of leadership in secession as upon the use of the negroes as voters and the radical amendment of the southern constitutions; and it presently became evident that there was a rapidly growing number of thoughtful men in the Republican ranks who thought it high time to grant a general amnesty and bring affairs to a normal condition again in southern society. Mr. Greeley was strongly of that opinion, and it took form and bred concert of action rapidly enough to play a determining part in the presidential campaign of 1872.



C. Schurz CARL SCHURZ

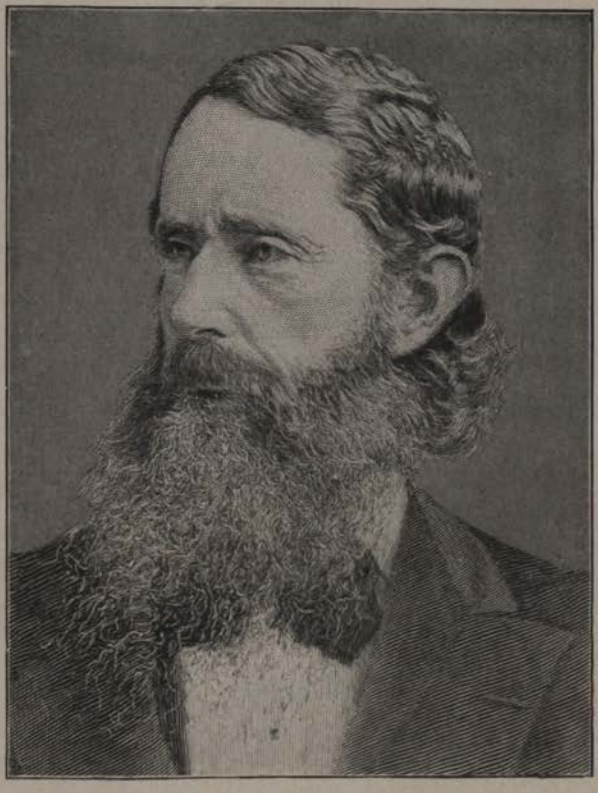
In 1870 the question had taken very definite form among the Republicans of Missouri, and the party had split asunder there into a radical and a liberal faction. The radicals wished for the present to maintain the disqualifications imposed by the constitution of the State upon those who had identified themselves with secession

during the war; the liberals demanded "universal amnesty and universal enfranchisement," and won in the state elections. The leaders of the successful revolt were Mr. Benjamin Gratz Brown and Mr. Carl Schurz. Mr. Brown had been politician, editor, soldier, senator these twenty years, and with the success of his party became governor of the State. Mr. Schurz was a member of the Senate, a man but just turned of forty but bred since a lad to the rôle of aggressive liberal in politics,—an exile from his German home because of his participation in the revolutionary movements of 1849. He was an orator whom opponents not prepared to join frank issue found it prudent to avoid in open contest. Mr. Lincoln had named him minister to Spain in 1861, but he had preferred the field and entered the army; and at the close of the war had been sent by the legislature of Missouri to the Senate of the United States.

The "Liberal Republicans" of Missouri, thus led, called upon men of like views everywhere to join them, and their ranks for a little seemed to fill upon a scale which threatened to make them a formidable national faction. The form the presidential campaign of 1872 was to take was determined by their initiative. In May, 1872,[1] a national convention of their partisans came together at Cincinnati, at the call of the Missouri leaders, and nominated Mr. Greeley for the presidency, Mr. Benjamin Gratz Brown for the vice presidency. These were nominations which the country found it hard to take seriously. Mr. Greeley's irregular genius, useful as it was in the trenchant statement of issues and the sharp challenge of opinion, was not of the kind prudent men were willing to see tried in the conduct

[1] See pages 305, 310.

of the government. He was too much a man of impulse, without poise or calculable lines of action. Mr. Brown the country did not know, except as a picturesque



BENJAMIN GRATZ BROWN

Missouri soldier and politician. The names of much more statesmanlike men had been proposed in the convention, but it had acted like a great mass meeting rather than like the organ of a party, upon impulse and hastily considered policy rather than with prudent forecast or real knowledge of the true grounds of

expediency. Its platform exhibited the same characteristics of half-formed opinion and a hurried compromise of interests. It condemned the existing administration as corrupt in its use of the patronage and absolutely disregardful of constitutional limitations in its use of power in the States, and demanded the "immediate and absolute removal of all disabilities imposed on account of the rebellion," in the belief that universal amnesty would "result in complete pacification in all parts of the country"; but its formulations of policy were vague and evasive. It was framed to please all elements of a mixed opposition, and to make as acceptable as possible its closing invitation to "all patriotic citizens, without regard to previous political affiliations," to join with its framers in purifying the government.

The Democratic convention, which met in Baltimore early in July, accepted both the platform and the candidates of the Cincinnati convention, though the Democratic leaders liked neither. The platform spoke no recognizable Democratic doctrine, except, indeed, in its advocacy of the maintenance of the public credit by a speedy return to specie payments, and the candidates were men whom no experienced politician could hope to see elected. But the split in the Republican ranks evidenced by the Cincinnati convention was the only sign anywhere visible to the Democratic leaders of a change in public sentiment likely to weaken the party in power. Without the coalition they knew themselves helpless; with it they hoped to make at least a show of strength. Such allies might be worth the weak candidates and the inconclusive declaration of principles that went with them. The "Liberal Re-

publicans" had given form to the whole campaign, as they had expected.

The result was what every one who had the least sagacity in reading the signs of political weather perceived from the first it must be. The Democrats added but one hundred and thirty thousand to their popular vote of four years before, though the number of voters in the country had greatly increased and for the first time in the history of the government every State chose its electors by the direct suffrage of the people. The Republicans added six hundred thousand to their vote, and General Grant was elected for a second term by an overwhelming majority in the electoral college (286–63). The congressional elections which accompanied the choice of President gave the Republicans again, moreover, their accustomed two-thirds majority in both houses. All things stood as before; the opposition were yet a long way off from power. Mr. Greeley survived the elections but a few weeks. He had not seen how hopeless his candidacy was. He was turned of sixty and had been broken in health. All his years had been full of such keen and unremitting labor as robs a man at last of his elasticity. The sudden stroke of utter defeat, touched almost with farce, so that men laughed to see how complete it was, was more than he could bear. On the 29th of November, 1872, before the electors had voted, he died. The few votes that would have gone to him were given as the electors pleased to men who had been his allies in the novel coalition he had led.

And yet, though the coalition had failed, the Democrats were nearer their day of success than they dreamed. Within two years the Republican majority of nearly

one hundred in the House of Representatives had been supplanted by a Democratic majority almost as large, and the men who had led the party of reconstruction found their season of mastery gone by. The country had begun to see with how radical a demoralization the war party it had trusted was beginning to be touched, and how impotent the amiable soldier they had put at the head of the government was to guide or better it. General Grant had found that the appointment of men to political office upon the recommendation of politicians and personal friends, though the friends were his own and the politicians men whom the country honored and whom he would have deemed it a reproach upon himself to distrust, was a very different matter from promoting officers tested under his own eye in camp and field. The leaders of Congress perceived plainly enough the movement of opinion out-of-doors, saw the service of the government steadily sinking to a lower level of efficiency, knew what influences were at work to debase it and what condemnation must come upon them should the use made of the patronage come fully to light. On the 3d of March, 1871, accordingly, they put through Congress an Act which authorized the President to frame and administer, through a commission, such rules as he thought best for the regulation of admissions to the civil service.[1] The President accepted the Act with cordial approval, with an obvious sense of relief, indeed; and with complete indifference to the distress of the politicians proceeded to establish and enforce a system of competitive examinations for office. But the politicians were stronger in Congress than the President, and after two years of painful exclusion from the use of the patronage induced the houses

[1] See page 253.

to withhold the appropriation necessary for the administration of the President's new system of appointment. They had not yet learned how hard a master public opinion was to be in that matter.

Possibly the mere demoralization of the civil service would not by itself have brought upon them the bitter discipline of defeat which they presently underwent. Other things went along with it which stirred the country more deeply; which made Congress itself seem corrupt and the party which controlled it without a watchful sense of honor. The year 1869, in which General Grant became President, had been marked by the completion of both the Central Pacific and the Union Pacific railways, the two lines begun in 1863, the one eastward from the Pacific, the other westward from the Missouri River, which when completed at their point of junction at last bound East and West together across the long plains and the high passes of the Rockies upon which so many a slow caravan had lost its way and its precious freight of human lives. In 1867 the company which had undertaken the construction of the Union Pacific had acquired by purchase the charter of a corporation organized in Pennsylvania in 1863 upon the model of the great French *Société Générale du Crédit Mobilier,* for the placing of loans, the handling of all marketable stocks, and the transaction of a general banking business. The French company had come very near to getting into its hands the whole brokerage business and mercantile credit of France; the promoters of the Union Pacific Railway bought out the Pennsylvania company in order to obtain a suitable instrument for conducting the financial operations connected with their undertaking. Congress had made immense grants

in aid of the Pacific railway, regarding its construction as of no less importance to the government than to the commerce and material development of the country, because it would bind the two coasts of the continent which had hitherto been almost like separated countries together by a great highway along which authority and the influences of opinion could travel as well as trade. Its subsidies had taken the form of six *per cent.* gold bonds: $16,000 for every mile of rails upon the prairies or the coast plains beyond the mountains, from $32,000 to $48,000 for every mile through the passes of the mountains or the difficult country between range and range,—besides twenty-five million acres of public land along the line of the road.

Here was a perilously close connection between a great financial undertaking and legislation by Congress; and in the presidential campaign of 1872 it was openly charged by the Democrats that Mr. Colfax, the Vice President, Mr. Henry Wilson, the Vice President elect, the Speaker of the House of Representatives, and a number of senators and representatives had accepted gifts of Crédit Mobilier stock in consideration of legislative and other services to be rendered the company. Both houses appointed committees of investigation. The revelations which ensued filled the country with uneasiness and disgust. Against the more prominent officials accused no proof of conscious wrongdoing was found. Only two members of the House and a single member of the Senate were found to have deliberately engaged in transactions which touched their integrity and honor. But many a detail came to light which showed that members carried very easy-going consciences in such matters, accepted favors without look-

ing too curiously into their motive or significance, thought more often of their personal interests than of the public honor, and felt very slightly the responsibility

Schuyler Colfax SCHUYLER COLFAX

of their posts of trust. It was open to any one who chose to believe that less had been told than had been covered up; that, with but a little more probing, it might have been possible to unearth many an unsavory in-

trigue. The discredit of the ruling party in the houses was steadily deepening.

The painful impressions left by the investigation were heightened by the deliberate action of the houses during the very session which saw it instituted and concluded. They did not scruple to pass an Act which increased the compensation of senators and representatives and which was made to apply retroactively to the sessions of the past two years,—an Act which the country very bluntly dubbed a "salary grab" and deemed quite in keeping with the reputation of a Congress which had censured but did not expel the members whom its own investigation had shown to be guilty of corrupt connection with the Crédit Mobilier.

Other impressions, well or ill founded, supervened which confirmed the country in its distrust of the men who were in control of affairs. In September, 1873, financial panic once more came upon the country with a rush, amidst abundant trade, amidst every sign of prosperity, when wages were good, employment readily found, factories busy, prices normal, money easy. Railways had been built too fast in the West. Within five years no less than $1,700,000,000 had been spent in railway construction. A Northern Pacific Railway was in course of construction, to be pushed forward through a new section of the country; and not a new Pacific railway only but shorter lines also by the score in regions where as yet there were no people, in order that parts of the country otherwise inaccessible might be opened up to quick settlement and profitable use. Such roads could not reasonably look to make a profit for twenty years to come. They were built with borrowed money. Their bonds filled every market, at

home and abroad. Some new roads there were which were only extensions of older lines of established earning capacity; but the older portions could not earn enough to pay for the new. Certain as the prospects of profit were, when the country should grow and settlers come to dot the lines of rail with towns, flank them with farms, and put factories at every point of vantage, their construction was for the present purely speculative, and the processes of growth upon which they depended to keep them from bankruptcy could not be sufficiently hurried to save their credit. Early in September, 1873, the break began to come. One by one banking and brokerage firms in New York which had advanced money to western and Canadian railways began to announce their inability to meet their obligations. On the morning of the 18th Mr. Jay Cooke, the agent of the federal government, with $4,000,000 of deposits from all parts of the country and $15,000,000 of the paper of the Northern Pacific company, declared himself unable to meet his debts, and the "Street" knew that the end had come. Firm after firm, company after company, went to the wall, some of them reputed the strongest in the country, and a long, slow winter of panic ensued whose effects the business of the country was to feel for years to come.

Men who did not know how to reason upon such matters or how to distinguish the real forces that governed the credit of the country were inclined to attribute this sudden sweep of calamity across a money market apparently prosperous and at peace to the financial legislation of Congress.[1] On the 12th of February, 1873, an Act had become law which, it was said, had "demonetized" silver and upset values. The

[1] See page 318.

Act had dropped from the list of authorized coins the silver dollar of 412½ grains, which had hitherto been the standard silver dollar of the coinage, and had authorized,

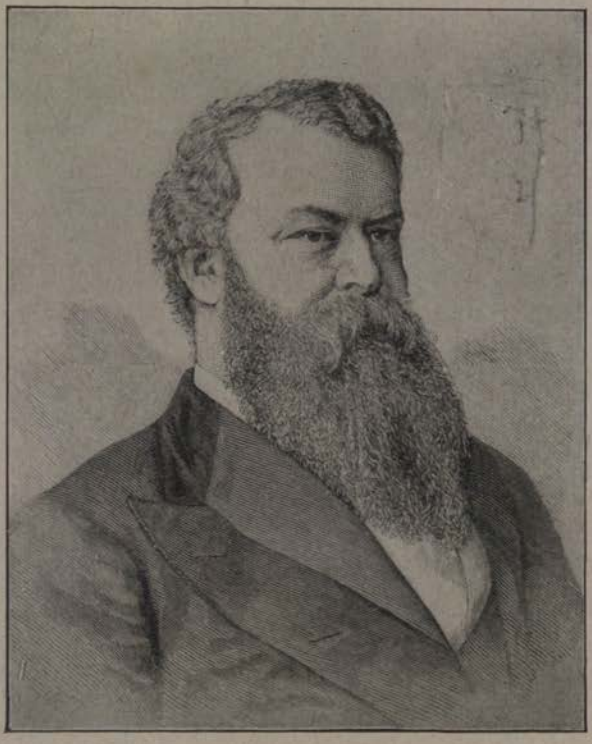
Jay Cooke JAY COOKE

in partial substitution, a "trade dollar" of 420 grains. No silver dollars of 412½ grains had been coined since 1808; since 1853 there had been no silver dollars in circulation; the Act simply made what was fact also law, and

had passed without objection. But when the financial crisis of the autumn of 1873 came many persons recalled the "demonetization" of silver effected at the opening of the year, and made shrewd theories about the causes of a panic whose explanation was obvious and upon its face. The Republicans in Congress had had the ill fortune to alter the law of the currency upon the very eve of a financial disturbance, and those who did not like their conduct of the government and suspected them of more corruption than had been proved were at liberty to add this to the list of things they had done amiss, to the damage of the country. The congressional elections of the autumn of 1874 went heavily against them; the House was lost to the Democrats; their majority in the Senate was retained only because the Senate was guarded by its constitution against sudden change. The impressions of that autumn and the events of the next year lost them also the local elections in many of the northern States which had so far seemed their safe strongholds. Even Massachusetts chose a Democratic governor.

The country could not overlook the evidences of demoralization at Washington. In 1875 it was discovered that there was concerted action in the West between distillers and federal officials to defraud the government of large amounts in respect of the internal revenue tax on distilled spirits, a "whiskey ring," as the newspapers called it, which did not hesitate to use a portion of its fraudulent profits to make good its opportunity and its immunity by political corruption. Mr. Belknap, the Secretary of War, was accused of accepting bribes in dispensing the patronage of his Department, and, upon impeachment on that charge, resigned

his office as if in confession, to escape punishment. Venality and fraud began on all hands to be suspected, even where they did not exist, and mere inefficiency began to irritate the country as if it were but a part of



WILLIAM WORTH BELKNAP

the general decadence of official honor. The President himself saw how ill, how discreditably, and with how incorrigible a tendency towards serious and even criminal misconduct, the administrative branches of the public service operated under his hand, and with the simplicity and frankness which were characteristic of him,—

PHYSICAL FEATURES OF THE UNITED STATES.

the simplicity and frankness which unscrupulous politicians played upon to betray him,—acknowledged his failure and longed for release from duties in the performance of which he knew that he had blundered. His eight years of power had cost his party its predominance.

It was not the condition of the civil service alone, however, or the mere alarm of the country at the too frequent disclosures of malfeasance in office which brought the ascendency of the Republicans to an end. Congress did its part to make it plain that nothing but blunders were to be expected from the political legislation of the men who had devised and forced to their execution the measures of reconstruction. On Christmas day, 1868, President Johnson had proclaimed full pardon and amnesty for all who had participated in secession, without reserve or exception, and by an Act of the 2d of May, 1872, Congress had removed the political disabilities imposed by the third section of the Fourteenth Amendment from all who had served the Confederate States, except only those who had left the Congress of the United States or the judicial, military, or naval service of the federal government, the headship of an executive Department or the post of minister at a foreign court to take part with the seceding States. But, though they thus cleared away the more abnormal obstructions to the return of settled peace and a natural order of life at the South, the congressional leaders could not keep their hands from the race question. Mr. Sumner, in particular, was insistent that the negroes should be given imperative federal law for their support in the assertion of their social no less than of their political rights; and in February, 1875, at last had his way,

though he did not live to see it. A bill passed which gave the federal courts the authority, by appropriate process and penalty, to enforce the right of negroes to accommodation in public inns, theatres, railway carriages, and schools, and to service upon all juries, upon the same footing as white persons. The Act became law on the 1st of March,[1] three days before the expiration of the term of the last House of Representatives the Republicans were effectually to control for fifteen years. It was the older leaders' last Act for creating friction at the South. For eight years it was to fail utterly of accomplishing its object and yet to work its work of irritation, to be set aside at last by the Supreme Court (1883) as an invasion of the legal field of the States which no portion of the constitution, new or old, could be made to sustain.

The reconstruction of the southern States had been the undoing of the Republican party. The course of carpet bag rule did not run smooth. Every election fixed the attention of the country upon some serious question of fraud or violence in the States where northern adventurers and negro majorities were in control. Congress could not remove the political disabilities of the southern white men without increasing their power at the polls and cutting at the foundations of Republican rule in the South; and yet, though the white voters were disfranchised, in at least three of the southern States Republican rule was maintained only by direct aid from Washington,—and sometimes at the point of the bayonet. General Grant had grown infinitely impatient that there should come every year, from State after State, calls for troops to keep the Republican governments at the South in their place of power. "The

[1] See page 321.

whole public are tired out with these annual autumnal outbreaks in the South," he said, in refusing troops to the governor of Mississippi, "and the great majority are ready now to condemn any interference on the part of the government. I heartily wish that peace and good order may be restored without issuing the proclamation. But, if it is issued, I shall instruct the commanders of the forces to have no child's play." Here was the right feeling of the man and the grim firmness of the soldier. He was not mistaken as to the feeling of the country; and though he withheld his hand where he could, there was military interference enough to exasperate that opinion to the utmost. Before his term was out the white voters of the South had rallied strong enough in every State except South Carolina, Florida, and Louisiana to take their governments out of the hands of the men who were preying upon them. That they had done it by methods which only an almost revolutionary state of society justified no one doubted: by keeping the negroes away from the polls by every form of intimidation, by forceable interference with their rights when necessary, by every expedient, whether of law or of subtile management, that promised them mastery; but they had triumphed, and there was at least an end of chronic revolution.

But in Louisiana, in Florida, and in South Carolina, though desperately beset, the Republicans had, by desperate means, kept their hold upon the governments they had made. The troops of the United States were first used to adjust the contest in Louisiana. The revised constitution of Louisiana, revised in the interest of the congressional plan of reconstruction, provided, as most of the new southern constitutions did,

for the determination of the results of all elections by a returning board so constituted as to be always under the control of the existing administration of the State. That board had the right to reject, without judicial process and upon its own mere opinion, the votes of all counties or precincts where force or fraud had been employed; and it used that power to check the rising Democratic vote wherever it seriously threatened the supremacy of those in authority. Its surveillance went smoothly enough so long as the Republicans were themselves united; but the Republicans of Louisiana had fallen apart into factions, vacancies upon the returning board had been made and filled by removals and appointments, amidst disputes and contests of legal right, until there were at last two boards instead of one, and before the matter was quieted three, each of which claimed to be the legal returning board of the State. The result of the election of the autumn of 1872 turned upon their rival claims. Over one the Democrats had got control by coalition with the "liberal" wing of the Republicans; another declared the Republican state officers and the Republican candidates for the state legislature elected, and federal aid was asked to carry its judgment into effect. A committee of Congress, sent down to investigate the matter, found it impossible to disentangle the hopeless quarrel; Congress failed to pass the only measure of relief its leaders were able to think of, a bill providing for a new election; and the President recognized and installed the Republican governor.

It was not an affair which either party could look back upon with complacency, but the Republicans took the greater discredit from it, and the country grew very

restive. A committee of the Senate reported that the district judge of the United States for the District of Louisiana had undoubtedly gone far beyond the scope of his power and acted in "flagrant disregard of his

SITTING BULL

duty" in his use of writs of injunction issued in aid of the faction which the President sustained. Some unsavory intrigue had been uncovered at almost every step of the investigation. Moreover, the action of the President was no settlement of the difficulty.

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It left the State in a heightened temper of revolution. Riots accompanied the efforts of the questionable government he set up to enforce its authority. In September, 1874, the partisans of Mr. McEnery, the leader of the combined Democrats and "liberal" Republicans, rose in arms, put every officer of his opponent's administration from his place, and assumed control of the government. Again federal troops intervened, and the ousted officers were reinstated. Nice compromises, difficult to maintain and satisfactory to nobody, had to be devised to keep the peace until there should be another trial of strength in the election of a governor at the polls.

The summer of 1876 was darkened by a tragic war with the Indians of the far West. In 1874 gold had been discovered in the Black Hills which lay upon the border line of Wyoming and Dakota, and the rush of settlers and miners thither had exasperated the Sioux tribes to take the war path. Their chief was Sitting Bull, whom the troops of the United States were to find an opponent to put them on their mettle. Gathering his forces within the secluded valley of the Little Big Horn by the upper waters of the Yellowstone, where he could best mask his strength, he struck first at one and then at another of the three small bodies of soldiers sent to converge upon him. One he forced back; another he effectually checked; part of the third he trapped and utterly destroyed. General Terry, coming against him from Bismarck, sent General Custer forward with the seventh cavalry to go round about and attack him at the rear; and on the 25th of June, riding with five companies hard upon the camp, Custer rode into a death trap. The Indians swarmed around him in numbers

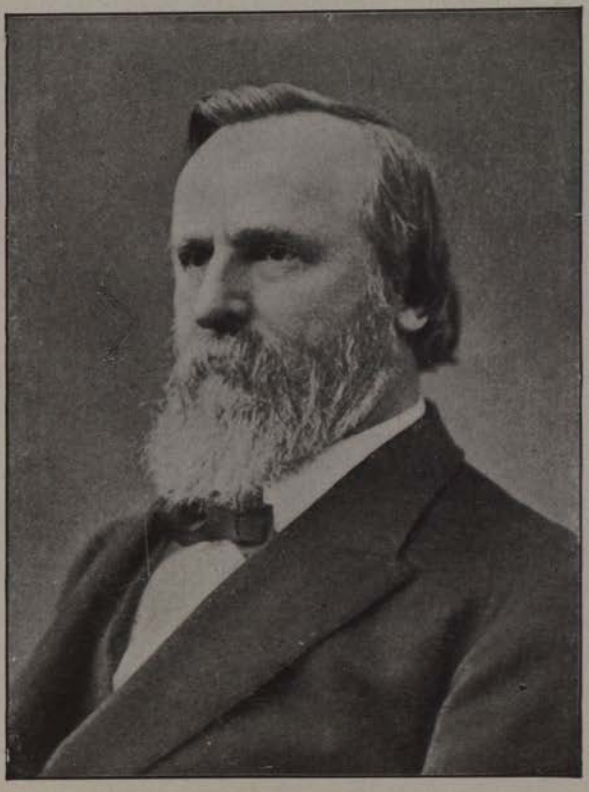
which utterly overwhelmed and completely cut him off from retreat, and not a man came away to tell the tale. The other seven companies of the regiment were not at hand to fight with them or to give them succor, and found themselves obliged, when at last they came up,

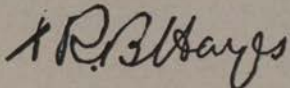
GEORGE ARMSTRONG CUSTER

to fortify a bluff near at hand as a place of safety and retreat until they should themselves be succored and relieved. The forces of the government gathered at last to complete the work so ill begun, and the Indians retired to the mountains; but it took much painful fighting, and many toilsome marches, prosecuted through

all the long autumn and the winter itself, to bring them to terms; and Sitting Bull slipped through their hands across the northern border at last.

Meanwhile the presidential election of 1876 had come and the full harvest of the mischief done in the reconstruction of the South was being reaped. The Democrats nominated Mr. Samuel J. Tilden, a man who had shown his quality as governor of the State of New York and won the respect of all thoughtful men, alike for his integrity and for his ability. The Republicans nominated Mr. Rutherford B. Hayes, who had won his place in the public confidence as an officer of volunteers in the war for the Union, as a member of the House of Representatives, and as governor of Ohio. Both men stood removed from the passionate contests of the period of reconstruction. Their candidacy put the emphasis of party contest as much as might be upon the issues of the new day rather than of the old. But the immediate past was a weight upon the fortunes of the Republicans; the country had turned with evident distrust from the work of confusion they had wrought. Again, as in 1874, Democratic majorities seemed to sweep the country. Only the confusion the Republicans themselves had brought about saved them from utter defeat. State elections had been held, as usual, in most of the States at the same time that presidential electors were chosen, and once again the result of the elections in Louisiana, Florida, and South Carolina was in dispute. The electoral votes of all of these States were necessary for the election of Mr. Hayes. Mr. Tilden had carried Connecticut, New York, New Jersey, Delaware, Maryland, Indiana, and Missouri, as well as the ten southern States whose votes were not in dis-

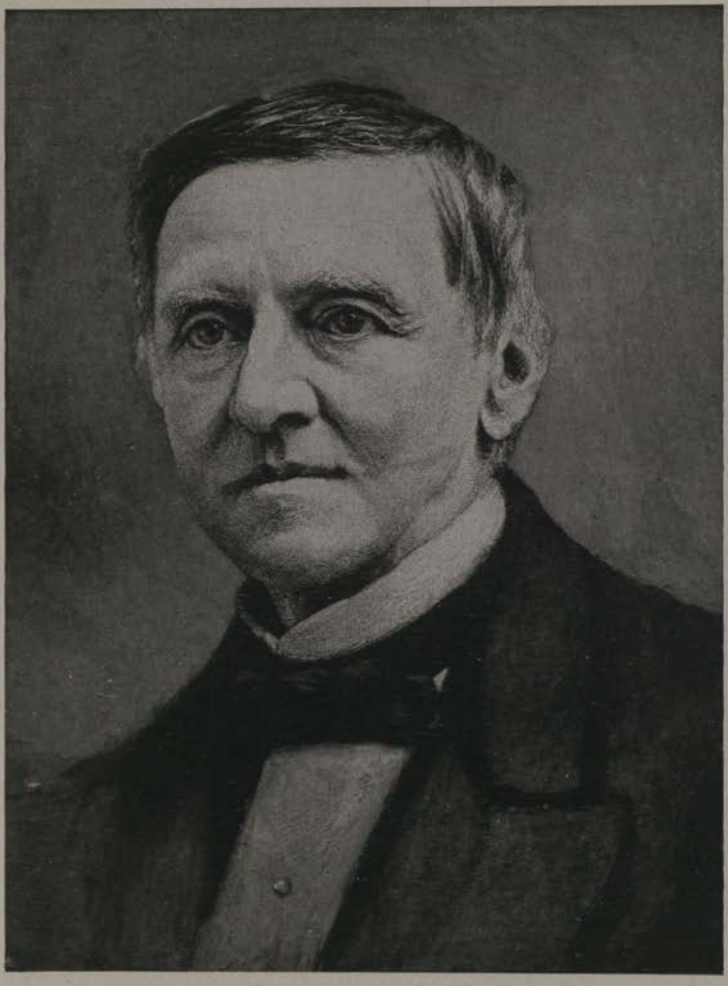




RUTHERFORD BIRCHARD HAYES

pute; one hundred and eighty-four electoral votes were secured for him beyond a doubt, and one hundred and eighty-five constituted a majority. A single additional electoral vote would bring him into the presidency, and it seemed possible that at least one might be added to his reckoning by Oregon. There three Republican electors had undoubtedly been chosen, but one of them was thought to have been ineligible under the law, and the Democratic governor had appointed in his stead the next candidate on the poll, a Democrat, and given him his certificate.

In the South nineteen electoral votes were in dispute. In Louisiana there had, apparently, been a clear majority of Democratic votes cast at the polls, alike for presidential electors and for governor and state legislators; but once again the returning board, which was in the hands of Republicans, had turned a Democratic into a Republican majority by rejecting the votes of precincts in which it declared fraud or intimidation to have been used. Certificates had been given to the Republican presidential electors, accordingly, and again a Republican state government had been set up by force of authority. But again the Democrats had refused to yield. They had set up, on their own part, a Democratic administration, and Mr. Nicholls, whom they claimed to have elected governor, gave certificates to the Democratic electors. In Florida the vote had been very close indeed, and turned upon the votes of a single county. The returning board of the State had but a single Democratic member, the Attorney General, and the majority of the board had given the vote of the State to the Republicans. The Attorney General had issued certificates over his own signature to the Democratic



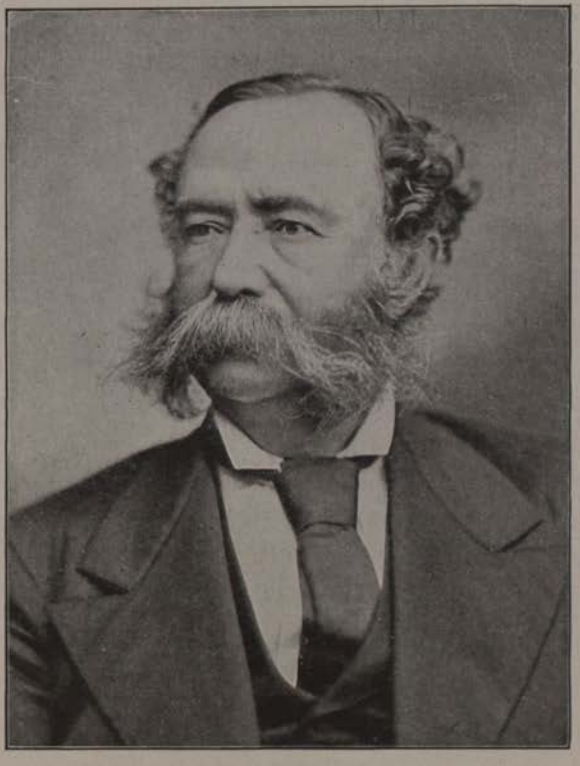
Samuel J. Tilden SAMUEL JONES TILDEN

electors. In South Carolina federal troops had in many places guarded the polls, and federal troops had assisted the Republican leaders of the State to put the governor and state legislators whom they claimed to have elected into office; but the Democrats claimed that their candidates had in fact been chosen, notwithstanding the obstructions to free voting created by the presence of troops and the interference of federal supervisors acting under the "Force Bills" of 1870 and 1871; inaugurated their own governor, General Wade Hampton, a distinguished cavalry commander of the Confederacy; and set up their own legislature. General Hampton issued certificates of election to the Democratic presidential electors.

All the country saw, with an instant thrill of misgiving, how perilous a situation was thus created. Here were double returns from three States in a presidential election, and the decision which should be chosen must determine the election. One vote out of the twenty in dispute, though it were only the single questionable vote of Oregon, would give the presidency to the Democrats. The control of the government turned upon the action of the houses when they should come to count the votes in joint session.[1] The House of Representatives was Democratic, the Senate Republican; there was no hope that they could agree. No one could confidently say, though he put partisanship aside and held his judgment at the nicest poise, upon which side the right lay in the disputed southern elections. It was plain enough that in any case the returning boards would have given the vote to the Republicans, whatever the face of the returns, so long as the men for whom they acted felt that they could count upon the support

[1] See pages 323, 328.

of the Executive at Washington in the maintenance of their authority. It was equally clear, on the other hand, that there were all but indisputable evidences



W. Hampton WADE HAMPTON

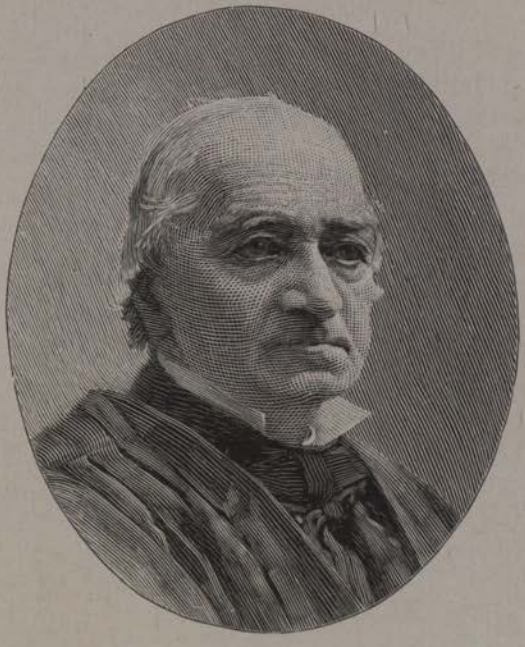
of fraud or at the least irregularity in the votes upon which the Democrats relied. In South Carolina serious riots had occurred whose avowed object had been the intimidation of the negroes. The country had grown

very impatient, as General Grant said, of seeing governments maintained at the South by federal arms, and wished very heartily to see the hand of the federal Executive withdrawn, come what come might; and yet it was not as clear as could be wished that this was the occasion for their legitimate overthrow.

What the country had really to fear was, not the difficulty of the problem as a question of justice, but the passion of parties, the danger that those who stood at the front of party counsels would seek the success of their party by some intrigue, even by some stroke of violence. Foreseeing a certain deadlock of the houses when it should come to a counting of the votes, there was talk among the more headlong and reckless partisans of each side of taking the law into their own hands. There were signs almost of civil war in the air for a few troubled weeks of that anxious autumn.

But it was never really likely it would come to that. Men trained in the temper of American institutions had never thought to settle a constitutional difficulty after that fashion. Congress listened very willingly to counsels of compromise and moderation. It was agreed that an electoral commission should be constituted, which should consist of five members of the House, three Democrats and two Republicans, five members of the Senate, three Republicans and two Democrats, two Democrats and two Republicans from the supreme bench of the United States, and an additional Justice from the same court selected by the four Justices named in the bill; and that to that commission should be referred every question in dispute. Such a commission was undoubtedly an extra-constitutional body, and its decisions disappointed the

country of any display of judicial impartiality it may have hoped for from it. Mr. Justice Bradley, who was chosen by his fellow Justices of the commission to be the fifteenth member of the tribunal, voted in every instance in favor of the Republican claims, as did every



JOSEPH P. BRADLEY

other member of the commission, whether judge, senator, or representative, whose affiliations were with the Republican party. Every Democrat of the commission voted in favor of the claims of the Democratic managers. Every question submitted was settled by a vote of eight to seven. But there was at least a settlement, which no one dreamed of disputing or attempting to annul.

General Grant gave way to Mr. Hayes, and the government remained in the hands of the Republicans.

To Mr. Hayes the tacit obligations of the situation were plain. He withdrew the federal troops from the South. The Republican governments of Louisiana and South Carolina were dissolved, and the Democratic governments which had claimed the election quietly took their place. The supreme court of Florida obliged the returning board of the State to accept the returns which had come to them from the disputed county, and a Democratic government came there also into power. The era of reconstruction was at an end.

The quiet figure of the retiring President began to seem almost at once like a figure lingering out of an age gone by. The honest, simple-hearted soldier had not added prestige to the presidential office. He himself knew that he had failed, that the administrative scandals, the stain of corruption, of intrigue, of malversation, the appearance as if of a group of personal allies bent upon their own aggrandizement rather than of a body of public servants devoted to the honest conduct of the nation's business, which had marked his management of the executive office must always stand as proof that he ought never to have been made President. But the corruption had not touched him. He was unstained. Every one who thought justly of the matter attributed his failure rather to his very honesty and simplicity of nature than to any fault of will. His trustfulness had betrayed him; his desire to be faithful to his friends had led him to shield knaves. He had thought other men as honest, as straightforward as himself. He had come to a great office untrained in affairs. Men's eyes followed his retreating figure with respect, with

veneration, with deep affection, and forgot that he had been duped by politicians; remembered only that he had been the successful leader of the armies of the republic.

Authorities. All the larger and more systematic histories of the country stop short of times so recent as those covered by this chapter. Neither is it any longer feasible to distinguish general authorities from contemporary accounts. All accounts of a time so recent are contemporary. We have for general guidance Judson S. Landon's *Constitutional History and Government of the United States,* Alexander Johnston's *American Politics,* the same author's admirable articles on the several topics here treated of, such as *Reconstruction,* the *Ku Klux, Crédit Mobilier,* etc., in Lalor's *Cyclopaedia of Political Science, Political Economy, and United States History,* John Clark Ridpath's popular *History of the United States,* John W. Burgess's *Reconstruction and the Constitution,* Edward Channing's *Student's History of the United States,* Edward Stanwood's *History of the Presidency,* Appleton's *Annual Cyclopaedia,* Edward McPherson's *Handbook of Politics,* issued in biennial volumes, except in 1870, from 1868 to 1894, Scribner's *Statistical Atlas of the United States,* to 1880, William A. Dunning's *Essays on the Civil War and Reconstruction,* G. W. Williams's *History of the Negro Race in America,* W. H. Barnes's *History of the Thirty-ninth Congress,* Albert Bushnell Hart's *Foundations of American Foreign Policy,* and many valuable articles scattered through the volumes of the *Atlantic Monthly* (especially a series on Reconstruction which appeared in 1901), the *North American Review, The Forum, The Nation,* and the *Political Science Quarterly.*

Among the more important *memoirs* are James G. Blaine's *Twenty Years of Congress,* S. S. Cox's *Three Decades of Federal Legislation, 1855 to 1885,* Hugh McCulloch's *Men and Measures of Half a Century,* John Sherman's *Recollections of Forty Years in the House, Senate, and Cabinet,* Dabney Herndon Maury's *Recollections of a Virginian,* Bishop R. H. Wilmer's *Recent Past from a Southern Standpoint,* Reuben Davis's *Recollections of Mississippi and Mississippians,* and G. W. Julian's *Political Recollections.*

Adam Badeau's *Grant in Peace,* A. R. Conkling's *Life and Letters of Roscoe Conkling,* John Bigelow's *Life of Samuel J. Tilden,* Albert Bushnell Hart's *Salmon P. Chase* in the *American*

Statesmen Series, and Moorfield Storey's *Charles Sumner,* in the same *Series,* cover parts of the period from the point of view of the several men of whom they treat.

Mr. Hilary A. Herbert's *Why the Solid South?* and Mr. William Garrott Brown's *The Lower South in American History* throw a great deal of light upon the time in regard to the affairs and the sentiment of the South; Mr. J. Lawrence Laughlin's *History of Bimetallism in the United States* and Professor F. W. Taussig's *Silver Situation in the United States* and *Tariff History of the United States,* and Mr. A. S. Bolles's *Financial History of the United States,* furnish excellent summaries of financial and fiscal conditions; Mr. Carroll D. Wright's *Industrial Evolution of the United States* sketches the development of industry and invention, and Mr. David A. Wells's *Recent Economic Changes* the altered economic conditions; Mr. Lauros G. McConachie's *Congressional Committees* and Miss M. P. Follett's *The Speaker of the House of Representatives* discuss the transformations of Congress and its relations to public business; and Mr. Henry Jones Ford's *Rise and Growth of American Politics* affords one of the best philosophical analyses of the general history of parties, party organization, and party control, anywhere to be found.

The *sources* are in the *Journals* of Congress, the *Congressional Record,* the House and Senate *Documents,* the *Messages and Papers of the Presidents,* and the periodical press of the time.

PART II

ORIGINAL DOCUMENTS

1863–1877

ORIGINAL DOCUMENTS

Lincoln's Proclamation of Amnesty, 1863

As one development of the secession of the Southern States and the war that ensued four amnesty proclamations were issued by Presidents of the United States. The first, by Lincoln, bears the date of December 8, 1863, and is as follows. From text in "United States Statutes at Large," Vol. XIII., Appendix VII.–IX. (See page 2.[1])

Whereas in and by the Constitution of the United States it is provided that the President "shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment;" and

Whereas a rebellion now exists whereby the loyal State governments of several States have for a long time been subverted, and many persons have committed and are now guilty of treason against the United States; and

Whereas, with reference to said rebellion and treason, laws have been enacted by Congress declaring forfeitures and confiscation of property and liberation of slaves, all upon terms and conditions therein stated, and also declaring that the President was thereby authorized at any time thereafter, by proclamation, to extend to per-

[1] The final page references in the introductions are to allusions in the History which are explained and illustrated in these documents.

sons who may have participated in the existing rebellion of any State or part thereof pardon and amnesty, with such exceptions and at such times and on such conditions as he may deem expedient for the public welfare; and

Whereas the Congressional declaration for limited and conditional pardon accords with well-established judicial exposition of the pardoning power; and

Whereas, with reference to said rebellion, the President of the United States has issued several proclamations with provisions in regard to the liberation of slaves; and

Whereas, it is now desired by some persons heretofore engaged in said rebellion to resume their allegiance to the United States, and to reinaugurate loyal State governments within and for their respective States: Therefore—

I, ABRAHAM LINCOLN, President of the United States, do proclaim, declare, and make known to all persons who have, directly or by implication, participated in the existing rebellion, except as hereinafter excepted, that a full pardon is hereby granted to them and each of them, with restoration of all rights of property, except as to slaves, and in property cases where rights of third parties shall have intervened, and upon the condition that every such person shall take and subscribe an oath, and thenceforward keep and maintain said oath inviolate; and which oath shall be registered for permanent preservation, and shall be of the tenor and effect following, to wit:

I, ————————, do solemnly swear, in presence of Almighty God, that I will henceforth faithfully support, protect, and defend the Constitution of the United States and the Union of the States thereunder; and that I will, in like manner, abide by and faithfully support all acts of Congress passed during the existing rebellion with reference to slaves, so long and so far as not repealed, modified, or held void by Congress, or by decision of the Supreme Court; and that I will, in like manner, abide by and faithfully support all proclama-

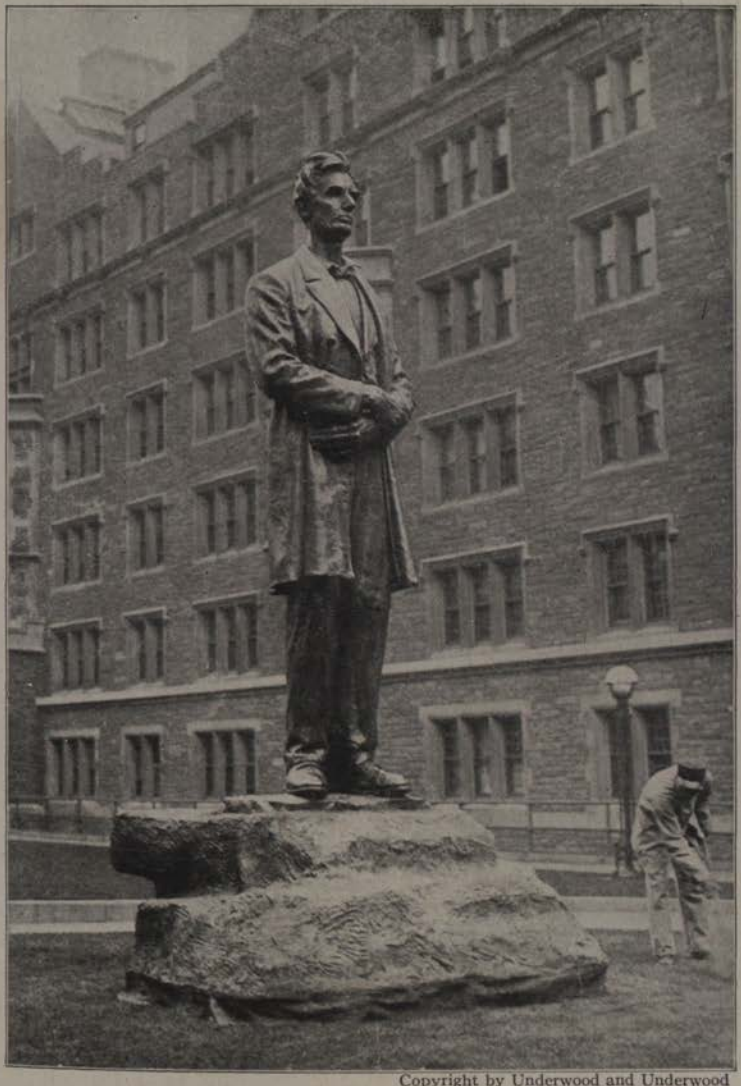
tions of the President made during the existing rebellion having reference to slaves, so long and so far as not modified or declared void by decision of the Supreme Court. So help me God.

The persons excepted from the benefits of the foregoing provisions are all who are, or shall have been, civil or diplomatic officers or agents of the so-called Confederate Government; all who have left judicial stations under the United States to aid the rebellion; all who are, or shall have been, military or naval officers of said so-called Confederate Government above the rank of colonel in the army or of lieutenant in the navy; all who left seats in the United States Congress to aid the rebellion; all who resigned commissions in the army or navy of the United States and afterwards aided the rebellion; and all who have engaged in any way in treating colored persons, or white persons in charge of such, otherwise than lawfully as prisoners of war, and which persons may have been found in the United States service as soldiers, seamen, or in any other capacity.

And I do further proclaim, declare, and make known that whenever, in any of the States of Arkansas, Texas, Louisiana, Mississippi, Tennessee, Alabama, Georgia, Florida, South Carolina, and North Carolina, a number of persons, not less than one tenth in number of the votes cast in such State to the presidential election of the year of our Lord one thousand eight hundred and sixty, each having taken the oath aforesaid, and not having since violated it, and being a qualified voter by the election laws of the State existing immediately before the so-called act of secession, and excluding all others, shall re-establish a State government which shall be republican, and in nowise contravening said oath, such shall be recognized as the true government of the State, and the State shall receive thereunder the benefits of the constitutional provision which declares that "the United States shall guarantee to every State in this Union a

LINCOLN

(From the statue by Augustus Saint-Gaudens, at Lincoln Park, Chicago)



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STATUE OF LINCOLN IN CINCINNATI

(By George Grey Barnard)

republican form of government, and shall protect each of them against invasion; and on application of the legislature, or the executive (when the legislature cannot be convened), against domestic violence."

And I do further proclaim, declare, and make known that any provision which may be adopted by such State government in relation to the freed people of such State, which shall recognize and declare their permanent freedom, provide for their education, and which may yet be consistent as a temporary arrangement with their present condition as a laboring, landless, and homeless class, will not be objected to by the National Executive.

And it is suggested as not improper that, in constructing a loyal State government in any State, the name of the State, the boundary, the subdivision, the constitution, and the general code of laws, as before the rebellion, be maintained, subject only to the modifications made necessary by the conditions hereinbefore stated, and such others, if any, not contravening said conditions, and which may be deemed expedient by those framing the new State government.

To avoid misunderstanding, it may be proper to say that this proclamation, so far as it relates to State governments, has no reference to States wherein loyal State governments have all the while been maintained. And, for the same reason, it may be proper to further say, that whether members sent to Congress from any State shall be admitted to seats constitutionally rests exclusively with the respective houses, and not to any extent with the Executive. And still further, that this proclamation is intended to present the people of the States wherein the national authority has been suspended and loyal State governments have been subverted a mode in and by which the national authority and loyal

LINCOLN MEMORIAL BUILDING, HARDIN COUNTY, KENTUCKY, IN WHICH IS PRESERVED THE CABIN SHOWN BELOW

Copyright by Brown Brothers.

THE LOG CABIN WHERE, IN HARDIN COUNTY, KENTUCKY, ABRAHAM LINCOLN WAS BORN ON FEBRUARY 12, 1809

(The cabin is still preserved intact as a memorial of the humble life from which the President arose)

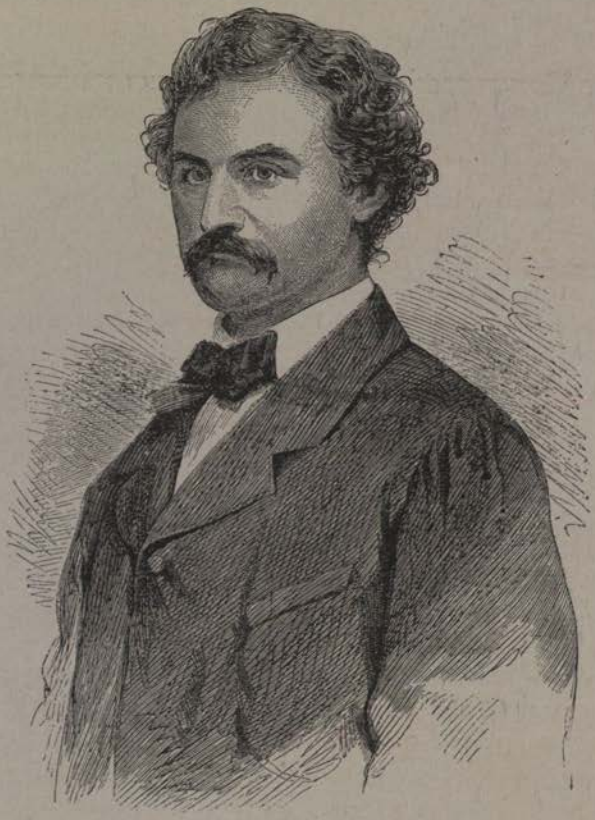
State governments may be re-established within said States, or in any of them; and, while the mode presented is the best the Executive can suggest, with his present impressions, it must not be understood that no other possible mode would be acceptable.

First Congressional Plan of Reconstruction, 1864

In his third annual message, dated December 8, 1863, Lincoln spoke earnestly of the duty of the United States to guarantee a republican form of government to the States in which the governments recognized by the United States had been abrogated or overthrown. As a result the Congress passed the following bill and it was approved on July 8, 1864. From text in "United States Statutes at Large," Vol. XIII., Appendix XIV.–XVII. (See page 23.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in the States declared in rebellion against the United States the President shall, by and with the advice and consent of the Senate, appoint for each a provisional governor, whose pay and emoluments shall not exceed that of a brigadier-general of volunteers, who shall be charged with the civil administration of such State until a State government therein shall be recognized as hereinafter provided.

Sec. 2. *And be it further enacted,* That so soon as the military resistance to the United States shall have been suppressed in any such State, and the people thereof shall have sufficiently returned to their obedience to the constitution and the laws of the United States, the provisional governor shall direct the marshal of the United States, as speedily as may be, to name a sufficient



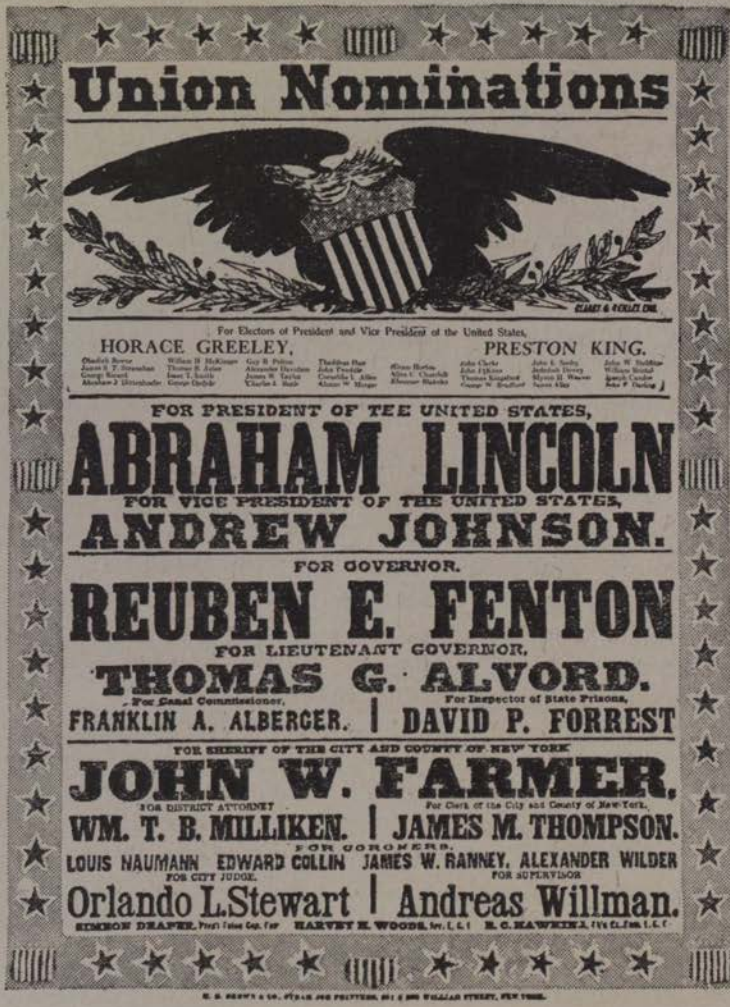
HENRY WINTER DAVIS, OF MARYLAND

(Chairman of the Congressional Committee on Rebellious States, who, with Senator Benjamin F. Wade, chairman of the Senate Committee, issued a paper against Lincoln's plan of reconstruction. From *Harper's Weekly*, after a photograph by Brady)

number of deputies, and to enroll all white male citizens of the United States, resident in the State in their respective counties, and to request each one to take the oath to support the constitution of the United States, and in his enrolment to designate those who take and those who refuse to take that oath, which rolls shall be forthwith returned to the provisional governor; and if the persons taking that oath shall amount to a majority of the persons enrolled in the State, he shall, by proclamation, invite the loyal people of the State to elect delegates to a convention charged to declare the will of the people of the State relative to the reëstablishment of a State government subject to, and in conformity with, the constitution of the United States.

SEC. 3. *And be it further enacted*, That the convention shall consist of as many members as both houses of the last constitutional State legislature, apportioned by the provisional governor among the counties, parishes, or districts of the State, in proportion to the white population, returned as electors, by the marshal, in compliance with the provisions of this act. The provisional governor shall, by proclamation, declare the number of delegates to be elected by each county, parish, or election district; name a day of election not less than thirty days thereafter; designate the places of voting in each county, parish, or district, conforming as nearly as may be convenient to the places used in the State elections next preceding the rebellion; appoint one or more commissioners to hold the election at each place of voting, and provide an adequate force to keep the peace during the election.

SEC. 4. *And be it further enacted*, That the delegates shall be elected by the loyal white male citizens of the United States of the age of twenty-one years, and resident at the time in the county, parish, or district in which they shall offer to vote, and enrolled as aforesaid, or absent in the military service of the United States,



POSTER FOR LINCOLN'S SECOND PRESIDENTIAL CAMPAIGN

(By the courtesy of Abram J. Dittenhoefer, one of the electors)

and who shall take and subscribe the oath of allegiance to the United States in the form contained in the act of Congress of July 2, 1862; and all such citizens of the United States who are in the military service of the United States shall vote at the headquarters of their respective commands, under such regulations as may be prescribed by the provisional governor for the taking and return of their votes; but no person who has held or exercised any office, civil or military, State or Confederate, under the rebel usurpation, or who has voluntarily borne arms against the United States, shall vote, or be eligible to be elected as delegate, at such election.

SEC. 5. *And be it further enacted*, That the said commissioners, or either of them, shall hold the election in conformity with this act and, so far as may be consistent therewith, shall proceed in the manner used in the State prior to the rebellion. The oath of allegiance shall be taken and subscribed on the poll-book by every voter in the form above prescribed, but every person known by, or proved to, the commissioners to have held or exercised any office, civil or military, State or Confederate, under the rebel usurpation, or to have voluntarily borne arms against the United States, shall be excluded, though he offer to take the oath; and in case any person who shall have borne arms against the United States shall offer to vote he shall be deemed to have borne arms voluntarily unless he shall prove the contrary by the testimony of a qualified voter. The poll-book, showing the name and oath of each voter, shall be returned to the provisional governor by the commissioners of election or the one acting, and the provisional governor shall canvass such returns, and declare the person having the highest number of votes elected.

SEC. 6. *And be it further enacted*, That the provisional governor shall, by proclamation, convene the delegates elected as aforesaid, at the capital of the State, on a day not more than three months after the election, giving at

least thirty days' notice of such day. In case the said capital shall in his judgment be unfit, he shall in his proclamation appoint another place. He shall preside over the deliberations of the convention, and administer to each delegate, before taking his seat in the convention, the oath of allegiance to the United States in the form above prescribed.

SEC. 7. *And be it further enacted,* That the convention shall declare, on behalf of the people of the State, their submission to the constitution and laws of the United States, and shall adopt the following provisions, hereby prescribed by the United States in the execution of the constitutional duty to guarantee a republican form of government to every State, and incorporate them in the constitution of the State, that is to say:

First. No person who has held or exercised any office, civil or military, except offices merely ministerial, and military offices below the grade of colonel, State or Confederate, under the usurping power, shall vote for or be a member of the legislature, or governor.

Second. Involuntary servitude is forever prohibited, and the freedom of all persons is guaranteed in said State.

Third. No debt, State or Confederate, created by or under the sanction of the usurping power, shall be recognized or paid by the State.

SEC. 8. *And be it further enacted,* That when the convention shall have adopted those provisions, it shall proceed to reëstablish a republican form of government, and ordain a constitution containing those provisions, which, when adopted, the convention shall by ordinance provide for submitting to the people of the State, entitled to vote under this law, at an election to be held in the manner prescribed by the act for the election of delegates; but at a time and place named by the convention, at which election the said electors, and none others, shall vote directly for or against such constitu-

MRS. LINCOLN, IN 1861 OR 1862

(From the original negative made by Brady, now in collection of Frederick H. Meserve, New York City)

tion and form of State government, and the returns of said election shall be made to the provisional governor, who shall canvass the same in the presence of the electors, and if a majority of the votes cast shall be for the constitution and form of government, he shall certify the same, with a copy thereof, to the President of the United States, who, after obtaining the assent of Congress, shall, by proclamation, recognize the government so established, and none other, as the constitutional government of the State, and from the date of such recognition, and not before, Senators and Representatives, and electors for President and Vice-President may be elected in such State, according to the laws of the State and of the United States.

SEC. 9. *And be it further enacted*, That if the convention shall refuse to reëstablish the State government on the conditions aforesaid, the provisional governor shall declare it dissolved; but it shall be the duty of the President, whenever he shall have reason to believe that a sufficient number of the people of the State entitled to vote under this act, in number not less than a majority of those enrolled, as aforesaid, are willing to reestablish a State government on the conditions aforesaid, to direct the provisional governor to order another election of delegates to a convention for the purpose and in the manner prescribed in this act, and to proceed in all respects as hereinbefore provided, either to dissolve the convention, or to certify the State government reestablished by it to the President.

SEC. 10. *And be it further enacted*, That, until the United States shall have recognized a republican form of State government, the provisional governor in each of said States shall see that this act, and the laws of the United States, and the laws of the State in force when the State government was overthrown by the rebellion, are faithfully executed within the State; but no law or usage whereby any person was heretofore held in in-

voluntary servitude shall be recognized or enforced by any court or officer in such State, and the laws for the trial and punishment of white persons shall extend to all persons, and jurors shall have the qualifications of voters under this law for delegates to the convention. The President shall appoint such officers provided for by the laws of the State when its government was overthrown as he may find necessary to the civil administration of the State, all which officers shall be entitled to receive the fees and emoluments provided by the State laws for such officers.

SEC. 11. *And be it further enacted*, That until the recognition of a State government as aforesaid, the provisional governor shall, under such regulations as he may prescribe, cause to be assessed, levied, and collected for the year eighteen hundred and sixty-four, and every year thereafter, the taxes provided by the laws of such State to be levied during the fiscal year preceding the overthrow of the State government thereof, in the manner prescribed by the laws of the State, as nearly as may be; and the officers appointed, as aforesaid, are vested with all powers of levying and collecting such taxes, by distress or sale, as were vested in any officers or tribunal of the State government aforesaid for those purposes. The proceeds of such taxes shall be accounted for to the provisional governor, and be by him applied to the expenses of the administration of the laws in such State, subject to the direction of the President, and the surplus shall be deposited in the treasury of the United States to the credit of such State, to be paid to the State upon an appropriation therefor, to be made when a republican form of government shall be recognized therein by the United States.

SEC. 12. *And be it further enacted*, That all persons held to involuntary servitude or labor in the States aforesaid are hereby emancipated and discharged therefrom, and they and their posterity shall be forever free. And

if any such persons or their posterity shall be restrained of liberty, under pretence of any claim to such service or labor, the courts of the United States shall, on habeas corpus, discharge them.

SEC. 13. *And be it further enacted,* That if any person declared free by this act, or any law of the United States, or any proclamation of the President, be restrained of liberty, with intent to be held in or reduced to involuntary servitude or labor, the person convicted before a court of competent jurisdiction of such act shall be punished by fine of not less than fifteen hundred dollars, and be imprisoned not less than five nor more than twenty years.

SEC. 14. *And be it further enacted,* That every person who shall hereafter hold or exercise any office, civil or military, except offices merely ministerial, and military offices below the grade of colonel, in the rebel service, State or Confederate, is hereby declared not to be a citizen of the United States.

Lincoln's Second Inaugural Address, 1865

This address, delivered on March 4, 1865, contains the memorable declaration beginning "With malice toward none, with charity for all, with firmness in the right." From text in "Messages and Papers of the Presidents, 1789–1897," edited by J. D. Richardson. Washington: Government Printing Office, 1897. (See page 4).

Fellow-countrymen: At this second appearing to take the oath of the Presidential office, there is less occasion for an extended address than there was at first. Then a statement, somewhat in detail, of a course to be pursued, seemed fitting and proper. Now, at the expiration of four years, during which public declarations have been constantly called forth on every point and phase of the great contest which still absorbs the attention and engrosses the energies of the nation, little that is new could be presented.

The progress of our arms, upon which all else chiefly depends, is as well known to the public as to myself; and it is, I trust, reasonably satisfactory and encouraging to all. With high hope for the future, no prediction in regard to it is ventured.

On the occasion corresponding to this four years ago, all thoughts were anxiously directed to an impending civil war. All dreaded it, all sought to avert it. While the inaugural address was being delivered from this place, devoted altogether to *saving* the Union without

ABRAHAM LINCOLN READING HIS SECOND INAUGURAL ADDRESS, MARCH 4, 1865
(From the original Brady negative, now in collection of Frederick H. Meserve)

war, insurgent agents were in the city seeking to *destroy* it without war—seeking to dissolve the Union and divide effects by negotiation. Both parties deprecated war, but one of them would *make* war rather than let the nation survive, and the other would *accept* war rather than let it perish; and the war came. One-eighth of the whole population were colored slaves, not distributed generally over the Union, but localized in the southern part of it. These slaves constituted a peculiar and powerful interest. All knew that this interest was somehow the cause of the war. To strengthen, perpetuate, and extend this interest was the object for which the insurgents would rend the Union even by war, while the government claimed no right to do more than to restrict the territorial enlargement of it.

Neither party expected for the war the magnitude or the duration which it has already attained. Neither anticipated that the *cause* of the conflict might cease when, or even before, the conflict itself should cease. Each looked for an easier triumph, and a result less fundamental and astounding. Both read the same Bible and pray to the same God, and each invokes His aid against the other. It may seem strange that any men should dare to ask a just God's assistance in wringing their bread from the sweat of other men's faces; but let us judge not, that we be not judged. The prayers of both could not be answered. That of neither has been answered fully. The Almighty has His own purposes. "Woe unto the world because of offences, for it must needs be that offences come, but woe to that man by whom the offence cometh." If we shall suppose that American slavery is one of those offences which, in the providence of God, must needs come, but which having continued through His appointed time, He now wills to remove, and that He gives to both North and South this terrible war as the woe due to those by whom the offence came—shall we discern there any departure from

those divine attributes which the believers in a living God always ascribe to Him? Fondly do we hope, fervently do we pray, that this mighty scourge of war may speedily pass away. Yet if God wills that it continue until all the wealth piled by the bondsman's 250

THE FRONT STREET THEATER, BALTIMORE, WHERE, ON JUNE 8, 1864, LINCOLN RECEIVED HIS SECOND NOMINATION FOR THE PRESIDENCY

years of unrequited toil shall be sunk, and until every drop of blood drawn with the lash shall be paid by another drawn with the sword, as was said 3,000 years ago, so still it must be said "the judgments of the Lord are true and righteous altogether."

With malice toward none, with charity for all, with firmness in the right, as God gives us to see the right,

let us strive on to finish the work we are in; to bind up the nation's wounds; to care for him who shall have borne the battle, and for his widow and his orphan; to do all which may achieve and cherish a just and a lasting peace among ourselves and with all nations.

The Assassination of Lincoln, April 14, 1865

The great fact of Lincoln's murder so overshadowed the importance of the official descriptions that few have ever stopped to examine them. The official announcements were short. The grief of the nation could not express itself in long official communications. It followed that events of less serious importance were recorded at greater length. The following statements were given to the public press, and they constituted almost the only important documents immediately associated with the greatest calamity in American history. They are reprinted from a local Washington paper (*The National Republican*) of April 15 and 17, 1865. (See page 1.)

War Department,
Washington, *April 15—1.30 a.m.*

Major General Dix, New York:

Last evening, at 10.30 P.M., at Ford's theatre, the President, while sitting in his private box with Mrs. Lincoln, Miss Harris, and Major Rathburn, was shot by an assassin who suddenly entered the box. He approached behind the President. The assassin then leaped upon the stage, brandishing a large dagger or knife, and made his escape by the rear of the theatre. The pistol ball entered the back of the President's head. The wound is mortal. The President has been insensible ever since it was inflicted, and is now dying.

About the same hour an assassin, either the same or

another, entered Mr. Seward's house, and under pretence of having a prescription, was shown to the Secretary's sick chamber. The Secretary was in bed—a nurse and Miss Seward with him. The assassin immediately rushed to the bed, inflicted two or three stabs on the throat, and two on the face.. It is hoped the wounds may not be mortal. My apprehension is that they will prove fatal. The nurse alarmed Mr. Frederick Seward, who was in an adjoining room, and he hastened to the door of his father's room, where he met the assassin, who inflicted upon him one or more dangerous wounds. The recovery of Frederick Seward is doubtful.

FREDERICK W. SEWARD

(From a photograph by Gardner, published in *Harper's Weekly*, July 1, 1865. He was the son of William H. Seward, Lincoln's Secretary of State, and on April 14, 1865, he was severely wounded while defending his father against an assassin. From 1861 to 1869 he was Assistant Secretary of State under his father)

It is not probable that the President will live through the night.

General Grant and wife were advertised to be at the theatre this evening, but the latter started to Burlington at six o'clock last evening.

At a Cabinet meeting at which General Grant was present to-day, the subject of the state of the country, and the prospects of speedy peace, was discussed. The President was very cheerful and hopeful, spoke very kindly of General Lee and others of the Confederacy, and the establishment of Government in Virginia. All

the members of the Cabinet, except Mr. Seward, are now in attendance upon the President. I have seen Mr. Seward, but he and Frederick were both unconscious.

EDWIN M. STANTON,
Secretary of War.

WAR DEPARTMENT,
WASHINGTON, D. C., *3 a.m., April 15.*

MAJOR GENERAL DIX, NEW YORK:

The President still breathes, but is quite insensible, as he has been ever since he was shot. He evidently did not see the person who shot him, but was looking on the stage, as he was approached behind.

Mr. Seward has rallied, and it is hoped he may live. Frederick Seward's condition is very critical. The attendant who was present was stabbed through the lungs, and is not expected to live. The wounds of Major Seward are not serious.

Chief Justice Carter is engaged in taking the evidence. Every exertion has been made to prevent the escape of the murderer. His horse has been found on the road near Washington.

EDWIN M. STANTON,
Secretary of War.

WAR DEPARTMENT,
WASHINGTON, D. C., *April 15—4.10 a.m.*

MAJOR GENERAL DIX, NEW YORK:

The President continues insensible, and is sinking. Secretary Seward remains without change. Frederick Seward's skull is fractured in two places, besides a severe cut upon the head. The attendant is still alive, but hopeless.

Major Seward's wounds are not dangerous. It is now ascertained with reasonable certainty, that two assassins were charged in the horrible crime—Wilkes

LEWIS PAYNE

DAVID C. HAROLD

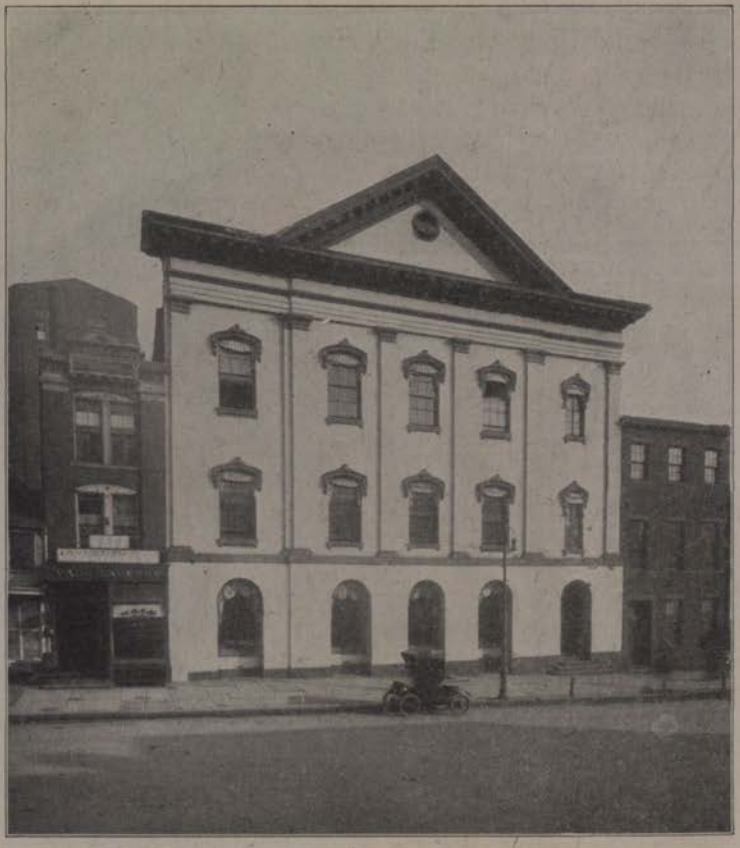
J. W. ATZEROTT

EDWARD SPANGLER

SAMUEL ARNOLD

MICHAEL O'LAUGHLIN

(Six of the conspirators connected with the murder of President Lincoln. From *Harper's Weekly*, July 1, 1865, drawn after photographs by Gardner, of Washington)



FORD'S THEATER IN TENTH STREET, WASHINGTON, IN WHICH LINCOLN WAS SHOT ON GOOD FRIDAY NIGHT, APRIL 14, 1865, BY JOHN WILKES BOOTH

Booth being the man that shot the President; the other a companion of his, whose name is not known, but whose description is so clear that he can hardly escape.

It appears, from a letter found in Booth's trunk, that the murder was planned before the fourth of March, but fell through then because the accomplice backed out until Richmond could be heard from. Booth and his accomplice were at the livery stable at six o'clock, last evening, and left there with their horses about ten o'clock, or shortly before that hour.

It would seem that they had for several days been seeking their chance, but for some unknown reason it was not carried into effect until last night. One of them has evidently made his way to Baltimore, the other has not yet been traced.

EDWIN M. STANTON,
Secretary of War.

WAR DEPARTMENT,
ADJUTANT GENERAL'S OFFICE,
WASHINGTON, *April 16th, 1865.*

GENERAL ORDERS, NO. 66.

The following order of the Secretary of War announces to the armies of the United States the untimely and lamentable death of the illustrious Abraham Lincoln, late President of the United States:

WAR DEPARTMENT,
WASHINGTON CITY, *April 16, 1865.*

The distressing duty has devolved upon the Secretary of War to announce to the armies of the United States, that at twenty-two minutes after seven o'clock, on the morning of Saturday, the 15th day of April, 1865, Abraham Lincoln, President of the United States, died of a mortal wound inflicted upon him by an assassin.

The armies of the United States will share with their fellow-citizens the feeling of grief and horror inspired

by this most atrocious murder of their great and beloved President and Commander-in-Chief, and with profound sorrow will mourn his death as a national calamity.

The headquarters of every department, post, station, fort, and arsenal will be draped in mourning for thirty days, and appropriate funeral honors will be paid by every army, and in every Department, and at every military post, and at the Military Academy at West Point, to the memory of the late illustrious Chief Magistrate of the nation and Commander-in-Chief of its armies.

Lieutenant General Grant will give the necessary instructions for carrying this order into effect.

EDWIN M. STANTON,
Secretary of War.

On the day after the receipt of this order at the headquarters of any military division, department, army, post, station, fort and arsenal, and at the Military Academy at West Point, the troops and cadets will be paraded at 10 o'clock, A.M., and the orders read to them, after which all labors and operations for the day will cease, and be suspended, as far as practicable in a state of war.

The national flag will be displayed at half staff.

At dawn of day thirteen guns will be fired, and afterwards, at intervals of thirty minutes, between rising and setting sun, a single gun, and at the close of day a national salute of thirty-five guns.

The officers of the Armies of the United States will wear the badge of mourning on the left arm and on their swords, and the colors of their commands and regiments will be put in mourning for the period of six months.

By command of
LIEUTENANT GENERAL GRANT.
W. A. NICHOLS,
Assistant Adjutant General.

THE HOUSE OPPOSITE FORD'S THEATER TO WHICH LINCOLN WAS BORNE, AND IN WHICH HE DIED NINE HOURS LATER WITHOUT GAINING CONSCIOUSNESS

LIEUT. GEN. U. S. GRANT, *U. S. Army, Commanding Armies of the United States. Washington, D. C.*

GENERAL: You will please announce by General Order to the armies of the United States that on Saturday, the 15th day of April, 1865, by reason of the death of Abraham Lincoln, the office of the President of the United States devolved upon Andrew Johnson, Vice-President, who on the same day took the official oath prescribed for the President, and entered upon the duties of that office.

EDWIN M. STANTON,
Secretary of War.

President Johnson's Inaugural Address, 1865

President Lincoln was shot by John Wilkes Booth on the night of April 14, 1865, and died the next day. Andrew Johnson, Vice-President, was sworn into the office of President by Chief-Justice Chase at eleven o'clock on the morning of April 15th, in the presence of nearly all the Cabinet officers and other persons. His address on assuming the Presidential office first appeared in the *Sunday Morning Chronicle* of Washington on the following day, and is here reprinted from the "Messages and Papers of the Presidents, 1789–1897," edited by J. D. Richardson. Washington: Government Printing Office, 1897, Vol. VI., pp. 305–306. (See page 11.)

Gentlemen: I must be permitted to say that I have been almost overwhelmed by the announcement of the sad event which has so recently occurred. I feel incompetent to perform duties so important and responsible as those which have been so unexpectedly thrown upon me. As to an indication of any policy which may be pursued by me in the administration of the Government, I have to say that that must be left for development as the Administration progresses. The message or declaration must be made by the acts as they transpire. The only assurance that I can now give of the future is reference to the past. The course which I have taken in the past in connection with this rebellion must be regarded as a guaranty of the future.

My past public life, which has been long and laborious, has been founded, as I in good conscience believe, upon a great principle of right, which lies at the basis of all things. The best energies of my life have been

ANDREW JOHNSON'S TAILOR SHOP IN GREENVILLE, EAST TENNESSEE, WHERE AS A YOUNG MAN HE LABORED AT HIS TRADE

(From a photograph by J. B. Reef, published in *Harper's Weekly*, October 14, 1865)

spent in endeavoring to establish and perpetuate the principles of free government, and I believe that the Government in passing through its present perils will settle down upon principles consonant with popular rights more permanent and enduring than heretofore. I must be permitted to say, if I understand the feelings of my own heart, that I have long labored to ameliorate and elevate the condition of the great mass of the American people. Toil and an honest advocacy of the great principles of free government have been my lot. Duties have been mine; consequences are God's. This

has been the foundation of my political creed, and I feel that in the end the Government will triumph and that these great principles will be permanently established.

In conclusion, gentlemen, let me say that I want your encouragement and countenance. I shall ask and rely upon you and others in carrying the Government through its present perils. I feel in making this request that it will be heartily responded to by you and all other patriots and lovers of the rights and interests of a free people.

Proclamation of Rewards for Arrest of Lincoln Conspirators, 1865

Within a few days after his assumption of office, or on May 2d, President Johnson issued the following proclamation offering rewards for the arrest of the Lincoln conspirators, and directed the Provost-Marshal-General of the United States to cause a description of the persons named in the proclamation, with notice of the rewards, to be published. From "Messages and Papers of the Presidents, 1789–1897," edited by J. D. Richardson. Washington: Government Printing Office, 1897, Vol. VI., pp. 307–308. (See page 11.)

Whereas it appears from evidence in the Bureau of Military Justice that the atrocious murder of the late President, Abraham Lincoln, and the attempted assassination of the Hon. William H. Seward, Secretary of State, were incited, concerted, and procured by and between Jefferson Davis, late of Richmond, Va., and Jacob Thompson, Clement C. Clay, Beverley Tucker, George N. Sanders, William C. Cleary, and other rebels and traitors against the Government of the United States harbored in Canada:

Now, therefore, to the end that justice may be done, I, Andrew Johnson, President of the United States, do offer and promise for the arrest of said persons, or either of them, within the limits of the United States, so that they can be brought to trial, the following rewards:

One hundred thousand dollars for the arrest of Jefferson Davis.

Twenty-five thousand dollars for the arrest of Clement C. Clay.

GEORGE N. SANDERS

(Named in President Johnson's proclamation as one of the Lincoln conspirators. From *Harper's Weekly*, August 26, 1865)

Twenty-five thousand dollars for the arrest of Jacob Thompson, late of Mississippi.

Twenty-five thousand dollars for the arrest of George N. Sanders.

Twenty-five thousand dollars for the arrest of Beverley Tucker.

Ten thousand dollars for the arrest of William C. Cleary, late clerk of Clement C. Clay.

Johnson's Proclamation of Amnesty, 1865

This, the second in the series of four such proclamations, was issued under date of May 29, 1865, and was the beginning of the reconstruction measures of the Congress. From text in "Messages and Papers of the Presidents, 1789–1897," edited by J. D. Richardson. Washington: Government Printing Office, 1897, Vol. VI., pp. 310–312. See also "Lincoln's Proclamation of Amnesty" on page 117. (See page 12.)

Whereas the President of the United States on the 8th day of December, A. D. 1863, and on the 26th day of March, A. D. 1864, did, with the object to suppress the existing rebellion, to induce all persons to return to their loyalty, and to restore the authority of the United States, issue proclamations offering amnesty and pardon to certain persons who had, directly or by implication, participated in the said rebellion; and

Whereas many persons, who had so engaged in said rebellion have, since the issuance of said proclamations, failed or neglected to take the benefits offered thereby; and

Whereas many persons who have been justly deprived of all claim to amnesty and pardon thereunder by reason of their participation, directly or by implication, in said rebellion and continued hostility to the Government of the United States since the date of said proclamations now desire to apply for and obtain amnesty and pardon.

To the end, therefore, that the authority of the Government of the United States may be restored and that peace, order, and freedom may be established, I, Andrew Johnson, President of the United States, do proclaim and declare that I hereby grant to all persons who have, directly or indirectly, participated in the existing rebellion, except as hereinafter excepted, amnesty and pardon, with restoration of all rights of property, except as to slaves and except in cases where legal proceedings under the laws of the United States providing for the confiscation of property of persons engaged in rebellion have been instituted; but upon the condition, nevertheless, that every such person shall take and subscribe the following oath (or affirmation) and thenceforward keep and maintain said oath inviolate, and which oath shall be registered for permanent preservation and shall be of the tenor and effect following, to wit:

THE FIRST "ANDY" JOHNSON CARTOON BY THOMAS NAST

(From an unused woodcut. In the upper half of the picture Johnson is scattering pardons to the secession prodigals, while Stanton looks grimly on. Below, Seward is washing the stains from the battle-flags which Gideon Welles is hanging on the line)

I, ————————, do solemnly swear (or affirm), in presence of Almighty God, that I will henceforth faithfully support, protect, and

defend the Constitution of the United States and the Union of the States thereunder, and that I will in like manner abide by and faithfully support all laws and proclamations which have been made during the existing rebellion with reference to the emancipation of slaves. So help me God.

The following classes of persons are excepted from the benefits of this proclamation:

First. All who are or shall have been pretended civil

MRS. ANDREW JOHNSON

(From an engraving by J. C. Buttre. Before her marriage to Andrew Johnson in 1826 she was Eliza McCardle, and she is credited with having taught Johnson writing and ordinary arithmetic. Andrew Johnson was only four years old when his father died, and at the age of ten he was bound out to a tailor. He learned to read between his labors. He removed to Greenville in East Tennessee in 1826 where he worked at his trade and where he was married)

or diplomatic officers or otherwise domestic or foreign agents of the pretended Confederate government.

Second. All who left judicial stations under the United States to aid the rebellion.

Third. All who shall have been military or naval

officers of said pretended Confederate government above the rank of colonel in the army or lieutenant in the navy.

Fourth. All who left seats in the Congress of the United States to aid the rebellion.

Fifth. All who resigned or tendered resignations of their commissions in the Army or Navy of the United States to evade duty in resisting the rebellion.

Sixth. All who have engaged in any way in treating otherwise than lawfully as prisoners of war persons found in the United States service as officers, soldiers, seamen, or in other capacities.

GIDEON WELLES

(Secretary of the Navy in President Johnson's Cabinet, having been first appointed to that office by President Lincoln in 1861)

Seventh. All persons who have been or are absentees from the United States for the purpose of aiding the rebellion.

Eighth. All military and naval officers in the rebel service who were educated by the Government in the Military Academy at West Point or the United States Naval Academy.

Ninth. All persons who held the pretended offices of governors of States in insurrection against the United States.

Tenth. All persons who left their homes within the jurisdiction and protection of the United States and passed beyond the Federal military lines into the pretended Confederate States for the purpose of aiding the rebellion.

Eleventh. All persons who have been engaged in the destruction of the commerce of the United States upon the high seas and all persons who have made raids into the United States from Canada or been engaged in destroying the commerce of the United States upon the lakes and rivers that separate the British Provinces from the United States.

Twelfth. All persons who, at the time when they seek to obtain the benefits hereof by taking the oath herein

prescribed, are in military, naval, or civil confinement or custody, or under bonds of the civil, military, or naval authorities or agents of the United States as prisoners of war, or persons detained for offenses of any kind, either before or after conviction.

WILLIAM H. SEWARD

(Secretary of State in President Johnson's Cabinet, having been first appointed to that office by President Lincoln in 1861)

Thirteenth. All persons who have voluntarily participated in said rebellion and the estimated value of whose taxable property is over $20,000.

Fourteenth. All persons who have taken the oath of amnesty as prescribed in the President's proclamation of December 8, A. D. 1863, or an oath of allegiance to the Government of the United States since the date of said proclamation and who have not thenceforward kept and maintained the same inviolate.

Provided, That special application may be made to the President for pardon by any persons belonging to the excepted classes, and such clemency will be liberally extended as may be consistent with the facts of the case and the peace and dignity of the United States.

The Secretary of State will establish rules and regulations for administering and recording the said amnesty oath, so as to insure its benefit to the people and guard the Government against fraud.

Establishment of the Freedmen's Bureau, 1865

Nearly two years were spent in the effort to authorize a bureau for the relief of freedmen and refugees; the Act to do so was passed and approved on March 3, 1865, and continued with enlarged functions by an Act of July 16, 1866, till July 16, 1868. Extracts from text in "United States Statutes at Large," Vol. XIII., pp. 507–509. (See page 26.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby established in the War Department, to continue during the present war of rebellion, and for one year thereafter, a bureau of refugees, freedmen, and abandoned lands, to which shall be committed, as hereinafter provided, the supervision and management of all abandoned lands, and the control of all subjects relating to refugees and freedmen from rebel States, or from any district of country within the territory embraced in the operations of the army, under such rules and regulations as may be prescribed by the head of the bureau and approved by the President. The said bureau shall be under the management and control of a commissioner to be appointed by the President, by and with the advice and consent of the Senate. . . .

Sec. 2. *And be it further enacted*, That the Secretary of War may direct such issues of provisions, clothing,

and fuel, as he may deem needful for the immediate and temporary shelter and supply of destitute and suffering refugees and freedmen and their wives and children, under such rules and regulations as he may direct.

SEC. 3. *And be it further enacted*, That the President may, by and with the advice and consent of the Senate,

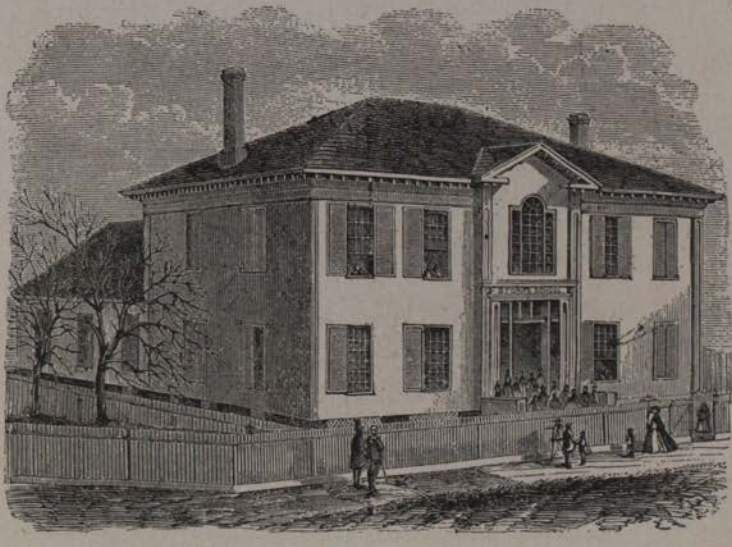
THE FREEDMEN'S BUREAU AT RICHMOND, VIRGINIA

(From a sketch by J. R. Hamilton published in *Harper's Weekly*, December 23, 1865)

appoint an assistant commissioner for each of the States declared to be in insurrection, not exceeding ten in number, who shall, under the direction of the commissioner, aid in the execution of the provisions of this act; . . . And any military officer may be detailed and assigned to duty under this act without increase of pay or allowances. . . .

SEC. 4. *And be it further enacted*, That the commissioner, under the direction of the President, shall have authority to set apart, for the use of loyal refugees and freedmen, such tracts of land within the insurrec-

tionary States as shall have been abandoned, or to which the United States shall have acquired title by confiscation or sale, or otherwise, and to every male citizen, whether refugee or freedman, as aforesaid, there shall be assigned not more than forty acres of such land, and the person to whom it was so assigned shall be protected in the use and enjoyment of the land for the term of three years at an annual rent not exceeding six per



FREEDMEN'S SCHOOL-HOUSE AT ATLANTA, GEORGIA

(From a drawing published in *Harper's Weekly*, March 30, 1867)

centum upon the value of such land, as it was appraised by the State authorities in the year eighteen hundred and sixty, for the purpose of taxation, and in case no such appraisal can be found, then the rental shall be based upon the estimated value of the land in said year, to be ascertained in such manner as the commissioner may by regulation prescribe. At the end of said term, or at any time during said term, the occupants of any

parcels so assigned may purchase the land and receive such title thereto as the United States can convey, upon paying therefor the value of the land, as ascertained and fixed for the purpose of determining the annual rent aforesaid.

President Johnson's Rehabilitation of the Southern States, 1865

The re-establishment of State governments in the late Confederate States was placed by the President under the direction of military governors appointed by him in proclamations as nearly identical in character as local conditions permitted. The first of these proclamations, for North Carolina, dated May 29, 1865, is here given as typical of those for Mississippi (June 13), Georgia and Texas (June 17), Alabama (June 21), South Carolina (June 30), and Florida (July 13). Text in "United States Statutes at Large," XIII., pp. 760–761. (See page 16.)

Whereas the fourth section of the fourth article of the Constitution of the United States declares that the United States shall guarantee to every state in the Union a republican form of government, and shall protect each of them against invasion and domestic violence; and whereas the President of the United States is, by the Constitution, made commander-in-chief of the army and navy, as well as chief civil executive officer of the United States, and is bound by solemn oath faithfully to execute the office of President of the United States, and to take care that the laws be faithfully executed; and whereas the rebellion, which has been waged by a portion of the people of the United States against the properly constituted authorities of the government thereof, in the most violent and revolting form, but whose organ-

ized and armed forces have now been almost entirely overcome, has, in its revolutionary progress, deprived the people of the State of North Carolina of all civil government; and whereas it becomes necessary and proper to carry out and enforce the obligations of the United States to the people of North Carolina, in securing them in the enjoyment of a republican form of government:

Now, therefore, in obedience to the high and solemn duties imposed upon me by the Constitution of the United States, and for the purpose of enabling the loyal people of said state to organize a state government, whereby justice may be established, domestic tranquillity insured, and loyal citizens protected in all their rights of life, liberty, and property, I, ANDREW JOHNSON, President of the United States, and commander-in-chief of the army and navy of the United States, do hereby appoint William W. Holden provisional governor of the State of North Carolina, whose duty it shall be, at the earliest practicable period, to prescribe such rules and regulations as may be necessary and proper for convening a convention, composed of delegates to be chosen by that portion of the people of said state who are loyal to the United States, and no others, for the purpose of altering or amending the constitution thereof; and with authority to exercise, within the limits of said state,

WILLIAM W. HOLDEN

(Appointed Provisional Governor of North Carolina by President Johnson. From a photograph by Gardner, published in *Harper's Weekly*, June 24, 1865)

all the powers necessary and proper to enable such loyal people of the State of North Carolina to restore said state to its constitutional relations to the federal government, and to present such a republican form of state government as will entitle the state to the guarantee of the United States therefor, and its people to protection by the United States against invasion, insurrection, and domestic violence; *Provided* that, in any election that may be hereafter held for choosing delegates to any state convention as aforesaid, no person shall be qualified as an elector, or shall be eligible as a member of such convention, unless he shall have previously taken and subscribed the oath of amnesty, as set forth in the President's Proclamation of May 29, A. D. 1865, and is a voter qualified as prescribed by the constitution and laws of the State of North Carolina in force immediately before the 20th day of May, A. D. 1861, the date of the so-called ordinance of secession; and the said convention, when convened, or the legislature that may be thereafter assembled, will prescribe the qualification of electors, and the eligibility of persons to hold office under the constitution and laws of the state,—a power the people of the several states composing the Federal Union have rightfully exercised from the origin of the government to the present time.

WILLIAM L. SHARKEY
(Appointed Provisional Governor of Mississippi by President Johnson)

And I do hereby direct—

First. That the military commander of the department, and all officers and persons in the military or

naval service, aid and assist the said provisional governor in carrying into effect this Proclamation, and they be enjoined to abstain from, in any way, hindering, impeding, or discouraging the loyal people from the organization of a state government as herein authorized.

Second. That the Secretary of State proceed to put in force all laws of the United States, the administration whereof belongs to the State Department, applicable to the geographical limits aforesaid.

BENJAMIN F. PERRY

(Appointed Provisional Governor of South Carolina by President Johnson. From *Harper's Weekly*, December 9, 1865)

Third. That the Secretary of the Treasury proceed to nominate for appointment assessors of taxes, and collectors of customs and internal revenue, and such other officers of the Treasury Department as are authorized by law, and put in execution the revenue laws of the United States within the geographical limits aforesaid. In making appointments, the preference shall be given to qualified loyal persons residing within the districts where their respective duties are to be performed. But if suitable residents of the districts shall not be found, then persons residing in other States or districts shall be appointed.

Fourth. That the Postmaster-General proceed to establish post-offices and post-routes, and put into execution the postal laws of the United States within the said State, giving to loyal residents the preference of appointment; but if suitable residents are not found, then to appoint agents, &c., from other States.

Fifth. That the district judge for the judicial district

in which North Carolina is included proceed to hold courts within said State, in accordance with the provisions of the act of Congress. The Attorney-General will instruct the proper officers to libel, and bring to judgment, confiscation, and sale, property subject to confiscation, and enforce the administration of justice within said State in all matters within the cognizance and jurisdiction of the federal courts.

Sixth. That the Secretary of the Navy take possession of all public property belonging to the Navy Department within said geographical limits, and put in operation all acts of Congress in relation to naval affairs having application to the said State.

Seventh. That the Secretary of the Interior put in force the laws relating to the Interior Department applicable to the geographical limits aforesaid.

First Civil Rights Act, 1866

This Act was based on a bill introduced in the Senate by Lyman Trumbull on January 5, 1866. After being amended in both Houses of Congress, it was passed in each; then vetoed by President Johnson; and, after further discussion, passed over the veto by both Houses, April 6 and 9. Extracts from text in "United States Statutes at Large," Vol. XIV., pp. 27–29. (See page 28.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all persons born in the United States and not subject to any foreign power, excluding Indians not taxed, are hereby declared to be citizens of the United States; and such citizens, of every race and color, without regard to any previous condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall have the same right, in every State and Territory in the United States, to make and enforce contracts, to sue, be parties, and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property, as is enjoyed by white citizens, and shall be subject to like punishment, pains, and penalties, and to none other, any law, statute, ordinance, regulation, or custom, to the contrary notwithstanding.

Sec. 2. *And be it further enacted,* That any person

SENATOR LYMAN TRUMBULL

(Who introduced First Civil Rights Bill in 1866 which was intended to give the negro the rights of a citizen before the law. From the original negative by Brady, now in collection of Frederick H. Meserve, New York City)

who, under color of any law, statute, ordinance, regulation, or custom, shall subject, or cause to be subjected, any inhabitant of any State or Territory to the deprivation of any right secured or protected by this act, or to different punishment, pains, or penalties on account of such person having at any time been held in a condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, or by reason of his color or race, than is prescribed for the punishment of white persons, shall be deemed guilty of a misdemeanor, and, on conviction, shall be punished by fine not exceeding one thousand dollars, or imprisonment not exceeding one year, or both, in the discretion of the court.

SEC. 3. *And be it further enacted*, That the district courts of the United States, within their respective districts, shall have, exclusively of the courts of the several States, cognizance of all crimes and offences committed against the provisions of this act, and also, concurrently with the circuit courts of the United States, of all causes, civil and criminal, affecting persons who are denied or cannot enforce in the courts or judicial tribunals of the State or locality where they may be any of the rights secured to them by the first section of this act. . . . The jurisdiction in civil and criminal matters hereby conferred on the district and circuit courts of the United States shall be exercised and enforced in conformity with the laws of the United States, so far as such laws are suitable to carry the same into effect; but in all cases where such laws are not adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies and punish offences against law, the common law, as modified and changed by the constitution and statutes of the State wherein the court having jurisdiction of the cause, civil or criminal, is held, so far as the same is not inconsistent with the Constitution and laws of the United States, shall be extended to and

govern said courts in the trial and disposition of such cause, and, if of a criminal nature, in the infliction of punishment on the party found guilty.

SEC. 4. *And be it further enacted*, That the district attorneys, marshals, and deputy marshals of the United States, the commissioners appointed by the circuit and territorial courts of the United States, with powers of arresting, imprisoning, or bailing offenders against the laws of the United States, the officers and agents of the Freedmen's Bureau, and every other officer who may be specially empowered by the President of the United States, shall be, and they are hereby, specially authorized and required, at the expense of the United States, to institute proceedings against all and every person who shall violate the provisions of this act, and cause him or them to be arrested and imprisoned, or bailed, as the case may be, for trial before such court of the United States or territorial court as by this act has cognizance of the offence. And with a view to affording reasonable protection to all persons in their constitutional rights of equality before the law, without distinction of race or color, or previous condition of slavery or involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, and to the prompt discharge of the duties of this act, it shall be the duty of the circuit courts of the United States and the superior courts of the Territories of the United States, from time to time, to increase the number of commissioners, so as to afford a speedy and convenient means for the arrest and examination of persons charged with a violation of this act . . .

. . . . . .

SEC. 8. *And be it further enacted*, That whenever the President of the United States shall have reason to believe that offences have been or are likely to be committed against the provisions of this act within any

judicial district, it shall be lawful for him, in his discretion, to direct the judge, marshal, and district attorney of such district to attend at such place within the district, and for such time as he may designate, for the purpose of the more speedy arrest and trial of persons charged with a violation of this act; and it shall be the duty of every judge or other officer, when any such requisition shall be received by him, to attend at the place and for the time therein designated.

SEC. 9. *And be it further enacted*, That it shall be lawful for the President of the United States, or such person as he may empower for that purpose, to employ such part of the land or naval forces of the United States, or of the militia, as shall be necessary to prevent the violation and enforce the due execution of this act.

SEC. 10. *And be it further enacted*, That upon all questions of law arising in any cause under the provisions of this act a final appeal may be taken to the Supreme Court of the United States.

Johnson's Proclamation of the End of Insurrection, 1866

This proclamation, under date of August 20, 1866, supplemented and confirmed the two tentative ones described in the document. The result restored civil government to the States that had seceded. From text in "Messages and Papers of the Presidents, 1789–1897," edited by J. D. Richardson. Washington: Government Printing Office, 1897, Vol. VI., pp. 434–438. (See pages 13, 14.)

Whereas by proclamations of the 15th and 19th of April, 1861, the President of the United States in virtue of the power vested in him by the Constitution and the laws, declared that the laws of the United States were opposed and the execution thereof obstructed in the States of South Carolina, Georgia, Alabama, Florida, Mississippi, Louisiana, and Texas by combinations too powerful to be suppressed by the ordinary course of judicial proceedings or by the powers vested in the marshals of the law; and

Whereas by another proclamation made on the 16th day of August, in the same year, in pursuance of an act of Congress approved July 13, 1861, the inhabitants of the States of Georgia, South Carolina, Virginia, North Carolina, Tennessee, Alabama, Louisiana, Texas, Arkansas, Mississippi, and Florida (except the inhabitants of the State of Virginia lying west of the Alleghany Mountains, and except also the inhabitants of such

other parts of that State and the other States before named as might maintain a loyal adhesion to the Union and Constitution or might be from time to time occupied and controlled by forces of the United States engaged in the dispersion of the insurgents) were declared to be in a state of insurrection against the United States; and

Whereas by another proclamation of the 1st of July, 1862, issued in pursuance of an act of Congress approved June 7, in the same year, the insurrection was declared to be still existing in the States aforesaid, with the exception of certain specified counties in the State of Virginia; and

Whereas by another proclamation made on the 2d day of April, 1863, in pursuance of an act of Congress of July 13, 1861, the exceptions named in the proclamation of August 16, 1861, were revoked and the inhabitants of the States of Georgia, South Carolina, North Carolina, Tennessee, Alabama, Louisiana, Texas, Arkansas, Mississippi, Florida, and Virginia (except the forty-eight counties of Virginia designated as West Virginia and the ports of New Orleans, Key West, Port Royal, and Beaufort, in North Carolina) were declared to be still in a state of insurrection against the United States; and

Whereas by another proclamation, of the 15th day of September, 1863, made in pursuance of the act of Congress approved March 3, 1863, the rebellion was declared to be still existing and the privilege of the writ of *habeas corpus* was in certain specified cases suspended throughout the duration of the rebellion or until said proclamation should, by a subsequent one to be issued by the President of the United States, be modified or revoked; and

Whereas the House of Representatives on the 22d day of July, 1861, adopted a resolution in the following words, namely:

Resolved by the House of Representatives of the Congress of the United States, That the present deplorable civil war has been forced upon the country by the disunionists of the Southern States now in revolt against the constitutional Government and in arms around the capitol;

PRESIDENT JOHNSON'S RECEPTION AT THE CONTINENTAL HOTEL, PHILADELPHIA, 1866

(From a drawing by E. P. Frazer, published in *Harper's Weekly*, September 15, 1866)

that in this national emergency Congress, banishing all feelings of mere passion or resentment, will recollect only its duty to the whole country; that this war is not waged upon our part in any spirit of oppression, nor for any purpose of conquest or subjugation, nor purpose of overthrowing or interfering with the rights or established institutions of those States; but to defend and maintain the supremacy of the Constitution and to preserve the Union, with all the dignity, equality, and rights of the several States, unimpaired; and that as

soon as these objects are accomplished the war ought to cease.

And whereas the Senate of the United States on the 25th day of July, 1861, adopted a resolution in the words following, to wit:

Resolved, That the present deplorable civil war has been forced upon the country by the disunionists of the Southern States now in revolt against the constitutional Government and in arms around the capitol; that in this national emergency Congress, banishing all feelings of mere passion or resentment, will recollect only its own duty to the whole country; that this war is not prosecuted upon our part in any spirit of oppression, nor for any purpose of conquest or subjugation, nor purpose of overthrowing or interfering with the rights or established institutions of those States; but to defend and maintain the supremacy of the Constitution and all laws made in pursuance thereof and to preserve the Union, with all the dignity, equality, and rights of the several States unimpaired; that as soon as these objects are accomplished the war ought to cease.

And whereas these resolutions, though not joint or concurrent in form, are substantially identical, and as such have hitherto been and yet are regarded as having expressed the sense of Congress upon the subject to which they relate; and

Whereas the President of the United States by proclamation of the 13th of June, 1865, declared that the insurrection in the State of Tennessee had been suppressed, and that the authority of the United States therein was undisputed, and such United States officers as had been duly commissioned were in the undisturbed exercise of their official functions; and

Whereas the President of the United States by further proclamation, issued on the 2d day of April, 1866, did promulgate and declare that there no longer existed any armed resistance of misguided citizens or others to

BIRTHPLACE OF PRESIDENT ANDREW JOHNSON, RALEIGH, NORTH CAROLINA

(From a sketch by Theodore R. Davis, in *Harper's Weekly*, June 3, 1865)

the authority of the United States in any or in all the States before mentioned, excepting only the State of Texas, and did further promulgate and declare that the laws could be sustained and enforced in the several States before mentioned, except Texas, by the proper civil authorities, State or Federal, and that the people of the said States, except Texas, are well and loyally disposed and have conformed or will conform in their legislation to the condition of affairs growing out of the amendment to the Constitution of the United States prohibiting slavery within the jurisdiction of the United States;

And did further declare in the same proclamation that it is the manifest determination of the American people that no State, of its own will, has a right or power to go out of, or separate itself from, or be separated from the American Union; and that, therefore, each State ought to remain and constitute an integral part of the United States;

And did further declare in the same last-mentioned proclamation that the several aforementioned States, excepting Texas, had in the manner aforesaid given satisfactory evidence that they acquiesce in this sovereign and important resolution of national unity; and

Whereas the President of the United States in the same proclamation did further declare that it is believed to be a fundamental principle of government that the people who have revolted and who have been overcome and subdued must be dealt with so as to induce them voluntarily to become friends or else they must be held by absolute military power or devastated so as to prevent them from ever again doing harm as enemies, which last-named policy is abhorrent to humanity and to freedom; and

Whereas the President did in the same proclamation further declare that the Constitution of the United States provides for constituent communities only as States,

and not as Territories, dependencies, provinces, or protectorates;

And further, that such constituent States must necessarily be, and by the Constitution and laws of the United States are, made equals and placed upon a like footing as to political rights, immunities, dignity, and power with the several States with which they are united;

And did further declare that the observance of political equality, as a principle of right and justice, is well calculated to encourage the people of the before-named States, except Texas, to become more and more constant and persevering in their new allegiance; and

Whereas the President did further declare that standing armies, military occupation, martial law, military tribunals, and the suppression of the writ of *habeas corpus* are in times of peace dangerous to public liberty, incompatible with the individual right of the citizen, contrary to the genius and spirit of our free institutions, and exhaustive of the national resources, and ought not, therefore, to be sanctioned or allowed except in cases of actual necessity for repelling invasion and suppressing insurrection or rebellion;

And the President did further, in the same proclamation, declare that the policy of the Government of the United States from the beginning of the insurrection to its overthrow and final suppression had been conducted in conformity with the principles in the last-named proclamation recited; and

Whereas the President, in the said proclamation, of the 13th of June, 1865, upon the grounds therein stated and hereinbefore recited, did then and thereby proclaim and declare that the insurrection which heretofore existed in the several States before named, except in Texas, was at an end and was therefore to be so regarded; and

Whereas subsequently to the said 2d day of April, 1866, the insurrection in the State of Texas has been

THE CAMPBELL HOUSE, NASHVILLE, TENNESSEE, IN WHICH ANDREW JOHNSON LIVED IN 1862 WHEN HE WAS MILITARY GOVERNOR OF TENNESSEE

completely and everywhere suppressed and ended and the authority of the United States has been successfully and completely established in the said State of Texas and now remains therein unassisted and undisputed, and such of the proper United States officers as have been duly commissioned within the limits of the said State are now in the undisturbed exercise of their official functions; and

Whereas the laws can now be sustained and enforced in the said State of Texas by the proper civil authority, State or Federal, and the people of the said State of Texas, like the people of the other States before named, are well and loyally disposed and have conformed or will conform in their legislation to the condition of affairs growing out of the amendment to the Constitution of the United States prohibiting slavery within the limits and jurisdiction of the United States; and

Whereas all the reasons and conclusions set forth in regard to the several States therein specially named now apply equally and in all respects to the State of Texas, as well as to the other States which have been involved in the insurrection; and

Whereas adequate provision has been made by military orders to enforce the execution of the acts of Congress, aid the civil authorities, and secure obedience to the Constitution and laws of the United States within the State of Texas if a resort to military force for such purpose should at any time be necessary:

Now therefore, I, Andrew Johnson, President of the United States, do hereby proclaim and declare that the insurrection which heretofore existed in the State of Texas is at an end and is to be henceforth so regarded in that State as in the other States before named in which the said insurrection was proclaimed to be at an end by the aforesaid proclamation of the 2d of April, 1866.

And I do further proclaim that the said insurrection is at an end and that peace, order, and tranquility, and

civil authority now exist in and throughout the whole United States of America.

In testimony whereof I have hereunto set my hand and caused the seal of the (Seal) United States to be affixed.

Done at the city of Washington, this 20th day of August, A. D. 1866, and of the Independence of the United States of America the ninety-first.

ANDREW JOHNSON.

By the President:
WILLIAM H. SEWARD,
Secretary of State

Tenure of Office Act, 1867

This Act was based on bills introduced in each House of Congress on December 3, 1866. The measures were freely amended and were considered by the Joint Select Committee on Retrenchment and a conference committee. A report by the latter was adopted in both Houses. On March 2, 1867, the bill was vetoed and passed over the veto. Extracts from text in "United States Statutes at Large," Vol. XIV., pp. 430–432. (See page 52.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That every person holding any civil office to which he has been appointed by and with the advice and consent of the Senate, and every person who shall hereafter be appointed to any such office, and shall become duly qualified to act therein, is, and shall be entitled to hold such office until a successor shall have been in like manner appointed and duly qualified, except as herein otherwise provided: *Provided,* That the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, the Postmaster-General, and the Attorney-General, shall hold their offices respectively for and during the term of the President by whom they may have been appointed and for one month thereafter, subject to removal by and with the advice and consent of the Senate.

Sec. 2. *And be it further enacted,* That when any officer appointed as aforesaid, excepting judges of the

United States courts, shall, during a recess of the Senate, be shown, by evidence satisfactory to the President, to be guilty of misconduct in office, or crime, or for any reason shall become incapable or legally disqualified to perform its duties, in such case, and in no other, the President may suspend such officer and designate some suitable person to perform temporarily the duties of such office until the next meeting of the Senate, and until the case shall be acted upon by the Senate. . . .; and in such case it shall be the duty of the President, within twenty days after the first day of such next meeting of the Senate, to report to the Senate such suspension, with the evidence and reasons for his action in the case, and the name of the person so designated to perform the duties of such office. And if the Senate shall concur in such suspension and advise and consent to the removal of such officer, they shall so certify to the President, who may thereupon remove such officer, and, by and with the advice and consent of the Senate, appoint another person to such office. But if the Senate shall refuse to concur in such suspension, such officer so suspended shall forthwith resume the functions of his office, and the powers of the person so performing its duties in his stead shall cease, and the official salary and emoluments of such officer shall, during such suspension, belong to the person so performing the duties thereof, and not to the officer so suspended. . . .

SEC. 3. *And be it further enacted,* That the President shall have power to fill all vacancies which may happen during the recess of the Senate, by reason of death or resignation, by granting commissions which shall expire at the end of their next session thereafter. And if no appointment, by and with the advice and consent of the Senate, shall be made to such office so vacant or temporarily filled as aforesaid during such next session of the Senate, such office shall remain in abeyance, without any salary, fees, or emoluments attached there-

JOHNSON AS KING SUPPORTED BY SEWARD AND WELLES. IN THE DISTANCE HENRY WARD BEECHER, WENDELL PHILLIPS, CHARLES SUMNER, AND OTHER ABOLITIONISTS ARE FORMED IN LINE FOR EXECUTION

(From a cartoon by Thomas Nast, published in *Harper's Weekly*, November 3, 1866)

to, until the same shall be filled by appointment thereto, by and with the advice and consent of the Senate; and during such time all the powers and duties belonging to such office shall be exercised by such other officer as may by law exercise such powers and duties in case of a vacancy in such office.

SEC. 4. *And be it further enacted*, That nothing in this act contained shall be construed to extend the term of any office the duration of which is limited by law.

SEC. 5. *And be it further enacted*, That if any person shall, contrary to the provisions of this act, accept any appointment to or employment in any office, or shall hold or exercise or attempt to hold or exercise, any such office or employment, he shall be deemed, and is hereby declared to be, guilty of a high misdemeanor, and, upon trial and conviction thereof, he shall be punished therefor by a fine not exceeding ten thousand dollars, or by imprisonment not exceeding five years, or both said punishments, in the discretion of the court.

SEC. 6. *And be it further enacted*, That every removal, appointment, or employment, made, had, or exercised, contrary to the provisions of this act, and the making, signing, sealing, countersigning, or issuing of any commission or letter of authority for or in respect to any such appointment or employment, shall be deemed, and are hereby declared to be, high misdemeanors, and, upon trial and conviction thereof, every person guilty thereof shall be punished by a fine not exceeding ten thousand dollars, or by imprisonment not exceeding five years, or both said punishments, in the discretion of the court. . . .

First Reconstruction Act, 1867

This Act, entitled "An Act to Provide for the More Efficient Government of the Rebel States," followed majority and minority reports from the Joint Committee on Reconstruction, a bill to reconstruct North Carolina, and a general reconstruction bill. The original bill was amended in the Senate and House; the Act was passed on February 20, 1867; was vetoed and then passed over the veto on March 2d. From text in "United States Statutes at Large," Vol. XIV., pp. 428–429. (See page 52.)

Whereas no legal State governments or adequate protection for life or property now exists in the rebel States of Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Texas, and Arkansas; and whereas it is necessary that peace and good order should be enforced in said States until loyal and republican State governments can be legally established: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That said rebel States shall be divided into military districts and made subject to the military authority of the United States as hereinafter prescribed, and for that purpose Virginia shall constitute the first district; North Carolina and South Carolina the second district; Georgia, Alabama, and Florida the third district;

Mississippi and Arkansas the fourth district; and Louisiana and Texas the fifth district.

SEC. 2. *And be it further enacted,* That it shall be the duty of the President to assign to the command of each of said districts an officer of the army, not below the rank of brigadier-general, and to detail a sufficient military force to enable such officer to perform his duties and enforce his authority within the district to which he is assigned.

SEC. 3. *And be it further enacted,* That it shall be the duty of each officer assigned as aforesaid, to protect all persons in their rights of person and property, to suppress insurrection, disorder, and violence, and to punish, or cause to be punished, all disturbers of the public peace and criminals; and to this end he may allow local civil tribunals to take jurisdiction of and to try offenders, or, when in his judgment it may be necessary for the trial of offenders, he shall have power to organize military commissions or tribunals for that purpose, and all interference under color of State authority with the exercise of military authority under this act, shall be null and void.

SEC. 4. *And be it further enacted,* That all persons put under military arrest by virtue of this act shall be tried without unnecessary delay, and no cruel or unusual punishment shall be inflicted, and no sentence of any military commission or tribunal hereby authorized, affecting the life or liberty of any person, shall be executed until it is approved by the officer in command of the district, and the laws and regulations for the government of the army shall not be affected by this act, except in so far as they conflict with its provisions: *Provided,* That no sentence of death under the provisions of this act shall be carried into effect without the approval of the President.

SEC. 5. *And be it further enacted,* That when the people of any one of said rebel States shall have formed a con-

stitution of government in conformity with the Constitution of the United States in all respects, framed by a convention of delegates elected by the male citizens of said State, twenty-one years old and upward, of whatever race, color, or previous condition, who have been resident in said State for one year previous to the day of such election, except such as may be disfranchised for participation in the rebellion or for felony at common law, and when such constitution shall provide that the elective franchise shall be enjoyed by all such persons as have the qualifications herein stated for electors of delegates, and when such constitut on shall be ratified by a majority of the persons voting on the question of ratification who are qualified as electors for delegates, and when such constitution shall have been submitted to Congress for examination and approval, and Congress shall have approved the same, and when said State, by a vote of its legislature elected under said constitution, shall have adopted the amendment to the Constitution of the United States, proposed by the Thirty-ninth Congress, and known as Article Fourteen, and when said Article shall have become a part of the Constitution of the United States said State shall be declared entitled to representation in Congress, and Senators and Representatives shall be admitted therefrom on their taking the oath prescribed by law, and then and thereafter the preceding sections of this act shall be inoperative in said State: *Provided*, That no person excluded from the privilege of holding office by said proposed amendment to the Constitution of the United States, shall be eligible to election as a member of the convention to frame a constitution for any of said rebel States, nor shall any such person vote for members of such convention.

SEC. 6. *And be it further enacted*, That, until the people of said rebel States shall be by law admitted to representation in the Congress of the United States, any civil governments which may exist therein shall be deemed

provisional only, and in all respects subject to the paramount authority of the United States at any time to abolish, modify, control, or supersede the same; and in all elections to any office under such provisional governments all persons shall be entitled to vote, and none others, who are entitled to vote, under the provisions of the fifth section of this act; and no persons shall be eligible to any office under any such provisional governments who would be disqualified from holding office under the provisions of the Third *Article* of said Constitutional amendment.

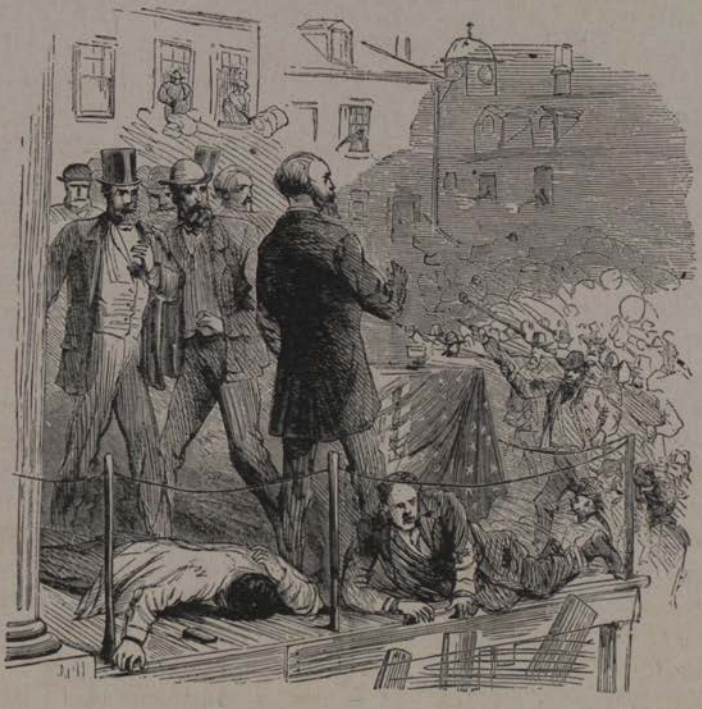
Second Reconstruction Act, 1867

The original bill, from the House Committee on the Judiciary, was amended in both Houses of Congress and again by a conference committee. President Johnson vetoed it on March 23, 1867. It was passed over the veto by each House the same day. Extracts from text in "United States Statutes at Large," Vol. XV., pp. 2–4. (See page 35.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That before the 1st day of September, 1867, the commanding general in each district defined by an act entitled, "An Act to provide for the more efficient government of the rebel States," approved March 2, 1867, shall cause a registration to be made of the male citizens of the United States, twenty-one years of age and upward, resident in each county or parish in the State or States included in his district, which registration shall include only those persons who are qualified to vote for delegates by the act aforesaid, and who shall have taken and subscribed the following oath or affirmation:

"I, ——— ———, do solemnly swear (or affirm), in the presence of Almighty God, that I am a citizen of the State of ——; that I have resided in said State for —— months next preceding this day, and now reside in the county of ——, or the parish of ——, in said State (as the case may be); that I am twenty-one years old; that I have not been disfranchised for participation in any rebellion or civil war against the United States,

or for felony committed against the laws of any State or of the United States; that I have never been a member of any State legislature, nor held any executive or judicial office in any State, and afterwards engaged in insurrection or rebellion against the United States,



REBEL RECEPTION OF JUDGE BENJAMIN F. KELLEY AT MOBILE, ALABAMA

(Judge Kelley was mobbed and imprisoned in his hotel by the unreconstructed rebels. From *Harper's Weekly*, July 1, 1867)

or given aid or comfort to the enemies thereof; that I have never taken an oath as a member of Congress of the United States, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitu-

tion of the United States, and afterwards engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof; that I will faithfully support the Constitution and obey the laws of the United States, and will, to the best of my ability, encourage others so to do, so help me God."

SEC. 2. *And be it further enacted,* That after the completion of the registration hereby provided for in any State, at such time and places therein as the commanding general shall appoint and direct, of which at least thirty days' public notice shall be given, an election shall be held of delegates to a convention for the purpose of establishing a constitution and civil government for such State loyal to the Union, said convention in each State, except Virginia, to consist of the same number of members as the most numerous branch of the State legislature of such State in the year 1860, to be apportioned among the several districts, counties, or parishes of such State by the commanding general, giving to each representation in the ratio of voters registered as aforesaid as nearly as may be. The convention in Virginia shall consist of the same number of members as represented the territory now constituting Virginia in the most numerous branch of the legislature of said State in the year 1860, to be apportioned as aforesaid.

SEC. 3. *And be it further enacted,* That at said election the registered voters of each State shall vote for or against a convention to form a constitution therefor under this act. Those voting in favor of such a convention shall have written or printed on the ballots by which they vote for delegates, as aforesaid, the words "For a convention," and those voting against such a convention shall have written or printed on such ballots the words, "Against a convention." The persons appointed to superintend said election, and to make return of the votes given thereat, as herein provided, shall count and make return of the votes given

for and against a convention; and the commanding general to whom the same shall have been returned shall ascertain and declare the total vote in each State for and against a convention. If a majority of the votes given on that question shall be for a convention, then such convention shall be held as hereinafter provided; but if a majority of said votes shall be against a convention, then no such convention shall be held under this act: *Provided,* That such convention shall not be held unless a majority of all such registered voters shall have voted on the question of holding such convention.

SEC. 4. *And be it further enacted,* That the commanding general of each district shall appoint as many boards of registration as may be necessary, consisting of three loyal officers or persons, to make and complete the registration, superintend the election, and make return to him of the votes, lists of voters, and of the persons elected as delegates by a plurality of the votes cast at said election; and upon receiving said returns he shall open the same, ascertain the persons elected as delegates, according to the returns of the officers who conducted said election, and make proclamation thereof; and if a majority of the votes given on that question shall be for a convention, the commanding general, within sixty days from the date of election, shall notify the delegates to assemble in convention, at a time and place to be mentioned in the notification, and said convention, when organized, shall proceed to frame a constitution and civil government according to the provisions of this act, and the act to which it is supplementary; and when the same shall have been so framed, said constitution shall be submitted by the convention for ratification to the persons registered under the provisions of this act at an election to be conducted by the officers or persons appointed or to be appointed by the commanding general, as hereinafter provided, and to be held after the expiration of thirty days from the date of notice thereof,

to be given by said convention; and the returns thereof shall be made to the commanding general of the district.

SEC. 5. *And be it further enacted*, That if, according to said returns, the constitution shall be ratified by a majority of the votes of the registered electors qualified as herein specified, cast at said election, at least one half of all the registered voters voting upon the question

REGISTRATION AT THE SOUTH. SCENE AT ASHEVILLE, NORTH CAROLINA

(From a drawing by A. W. Thompson, published in *Harper's Weekly*, September 28, 1867, made from an actual scene in the little mountain town of Asheville, North Carolina. The illustration represents a registration scene familiar in 1867 in any part of the South)

of such ratification, the president of the convention shall transmit a copy of the same, duly certified, to the President of the United States, who shall forthwith transmit the same to Congress, if then in session, and if not in session, then immediately upon its next assembling; and if the said constitution shall be declared by Congress to be in conformity with the provisions of the act to which this is supplementary, and the other provisions of said act shall have been complied with, and the said constitution shall be approved by Congress,

the States shall be declared entitled to representation, and Senators and Representatives shall be admitted therefrom as therein provided.

SEC. 6. *And be it further enacted*, That all elections in the States mentioned in the said act to provide for the more efficient government of the rebel States, shall, during the operation of said act, be by ballot; and all officers making the said registration of voters and conducting said elections shall, before entering upon the discharge of their duties, take and subscribe an oath faithfully to perform the duties of their said office, and the oath prescribed by the act approved July 2, 1862, entitled "An act to prescribe an oath of office."

SEC. 7. *And be it further enacted*, That all expenses incurred by the several commanding generals, or by virtue of any orders issued, or appointments made, by them, under or by virtue of this act, shall be paid out of any moneys in the Treasury not otherwise appropriated.

SEC. 8. *And be it further enacted*, That the convention for each State shall prescribe the fees, salary, and compensation to be paid to all delegates and other officers and agents herein authorized or necessary to carry into effect the purpose of this act not herein otherwise provided for, and shall provide for the levy and collection of such taxes on the property in such State as may be necessary to pay the same.

Interpretation of the Reconstruction Acts, 1867

Congress passed four Acts for the reconstruction of the late Confederate States: the first on March 2, 1867; the second on March 23d following; the third on July 19, 1867; and the fourth on March 11, 1868. The executive authority in each of these States had been vested in a military commander appointed by the President. These officials met with so many difficulties in attempting to enforce the provisions of the first two Acts that they appealed to the President for an interpretation of their meaning and scope. In response thereto the President directed the issue of the following circular of instruction to each military commander from the Adjutant-General's office, under date of June 20, 1867. Text from "Messages and Papers of the Presidents, 1789–1897," edited by J. D. Richardson. Washington: Government Printing Office, 1897, Vol. VI., pp. 552–556. (See pages 44–52.)

War Department,
Adjutant-General's Office,
Washington, June 20, 1867.

Whereas several commanders of military districts created by the acts of Congress known as the reconstruction acts have expressed doubts as to the proper construction thereof and in respect to some of their powers and duties under said acts, and have applied to the Executive for information in relation thereto; and

Whereas the said acts of Congress have been referred to the Attorney-General for his opinion thereon, and the said acts and the opinion of the Attorney-General have been fully and carefully considered by the President in conference with the heads of the respective Departments:

The President accepts the following as a practical interpretation of the aforesaid acts of Congress on the points therein presented, and directs the same to be transmitted to the respective military commanders for their information, in order that there may be uniformity in the execution of said acts:

1. The oath prescribed in the supplemental act defines all the qualifications required, and every person who can take that oath is entitled to have his name entered upon the list of voters.

2. The board of registration have no authority to administer any other oath to the person applying for registration than this prescribed oath, nor to administer an oath to any other person touching the qualifications of the applicant or the falsity of the oath so taken by him. The act, to guard against falsity in the oath, provides that if false the person taking it shall be tried and punished for perjury.

No provision is made for challenging the qualifications of the applicant or entering upon any trial or investigation of his qualifications, either by witnesses or any other form of proof.

3. *As to citizenship and residence:*

The applicant for registration must be a citizen of the State and of the United States, and must be a resident of a county or parish included in the election district. He may be registered if he has been such citizen for a period less than twelve months at the time he applies for registration, but he can not vote at any election unless his citizenship has *then* extended to the full term of one year. As to such a person, the exact length of

THE NEW MILITARY COMMANDERS, 1867

(From *Harper's Weekly*, April 6. Left to right: Major-General Daniel E. Sickles, Major-General John Pope, Major-General George H. Thomas, General U. S. Grant, Brevet Major-General John M. Schofield, Major-General Philip H. Sheridan, Brevet Major-General E. O. C. Ord)

his citizenship should be noted opposite his name on the list, so that it may appear on the day of election, upon reference to the list, whether the full term has then been accomplished.

4. An unnaturalized person can not take this oath, but an alien who has been naturalized can take it, and no other proof of naturalization can be required from him.

5. No one who is not 21 years of age at the time of registration can take the oath, for he must swear that he has then attained that age.

6. No one who has been disfranchised for participation in any rebellion against the United States or for felony committed against the laws of any State or of the United States can take this oath.

The actual participation in a rebellion or the actual commission of a felony does not amount to disfranchisement. The sort of disfranchisement here meant is that which is declared by law passed by competent authority, or which has been fixed upon the criminal by the sentence of the court which tried him for the crime.

No law of the United States has declared the penalty of disfranchisement for participation in rebellion alone; nor is it known that any such law exists in either of these ten States, except, perhaps, Virginia, as to which State special instructions will be given.

7. *As to disfranchisement arising from having held office followed by participation in rebellion:*

This is the most important part of the oath, and requires strict attention to arrive at its meaning. The applicant must swear or affirm as follows:

That I have never been a member of any State legislature, nor held any executive or judicial office in any State, and afterwards engaged in an insurrection or rebellion against the United States or given aid or comfort to the enemies thereof; that I have never taken an oath as a member of Congress of the United States, or as an officer of the United States, or as a member of any State legislature, or as

an executive or judicial officer of any State, to support the Constitution of the United States, and afterwards engaged in insurrection or rebellion against the United States or given aid or comfort to the enemies thereof.

Two elements must concur in order to disqualify a person under these clauses: First, the office and official oath to support the Constitution of the United States; second, engaging afterwards in rebellion. Both must exist to work disqualification, and must happen in the order of time mentioned.

A person who has held an office and taken the oath to support the Federal Constitution and has not afterwards engaged in rebellion is not disqualified. So, too, a person who has engaged in rebellion, but has not theretofore held an office and taken that oath, is not disqualified.

8. *Officers of the United States:*

As to these the language is without limitation. The person who has at any time prior to the rebellion held an office, civil or military, under the United States, and has taken an official oath to support the Constitution of the United States, is subject to disqualification.

9. *Militia officers* of any State prior to the rebellion are not subject to disqualification.

10. *Municipal officers*—that is to say, officers of incorporated cities, towns, and villages, such as mayors, aldermen, town council, police, and other city or town officers—are not subject to disqualification.

11. Persons who have prior to the rebellion been members of the Congress of the United States or members of a State legislature are subject to disqualification, but those who have been members of conventions framing or amending the Constitution of a State prior to the rebellion are not subject to disqualification.

12. All the executive or judicial officers of any State who took an oath to support the Constitution of the United States are subject to disqualification, including

EDWIN D. TOWNSEND

(Adjutant-General of the United States. From the original negative by Brady, now in collection of Frederick H. Meserve, New York City)

county officers. They are subject to disqualification if they were required to take as a part of their official oath *the oath to support the Constitution of the United States.*

13. Persons who exercised mere employment under State authority are not disqualified; such as commissioners to lay out roads, commissioners of public works, visitors of State institutions, directors of State institutions, examiners of banks, notaries public, and commissioners to take acknowledgments of deeds.

Engaging in Rebellion

Having specified what offices held by anyone prior to the rebellion come within the meaning of the law, it is necessary next to set forth what subsequent conduct fixes upon such person the offense of engaging in rebellion. Two things must exist as to any person to disqualify him from voting: First, the office held prior to the rebellion, and, afterwards, participation in the rebellion.

14. An act to fix upon a person the offense of engaging in the rebellion under this law must be an overt and voluntary act, done with the intent of aiding or furthering the common unlawful purpose. A person forced into the rebel service by conscription or under a paramount authority which he could not safely disobey, and who would not have entered such service if left to the free exercise of his own will, can not be held to be disqualified from voting.

15. Mere acts of charity, where the intent is to relieve the wants of the object of such charity, and not done in aid of the cause in which he may have been engaged, do not disqualify; but organized contributions of food and clothing for the general relief of persons engaged in the rebellion, and not of a merely sanitary character,

but contributed to enable them to perform their unlawful object, may be classed with acts which do disqualify.

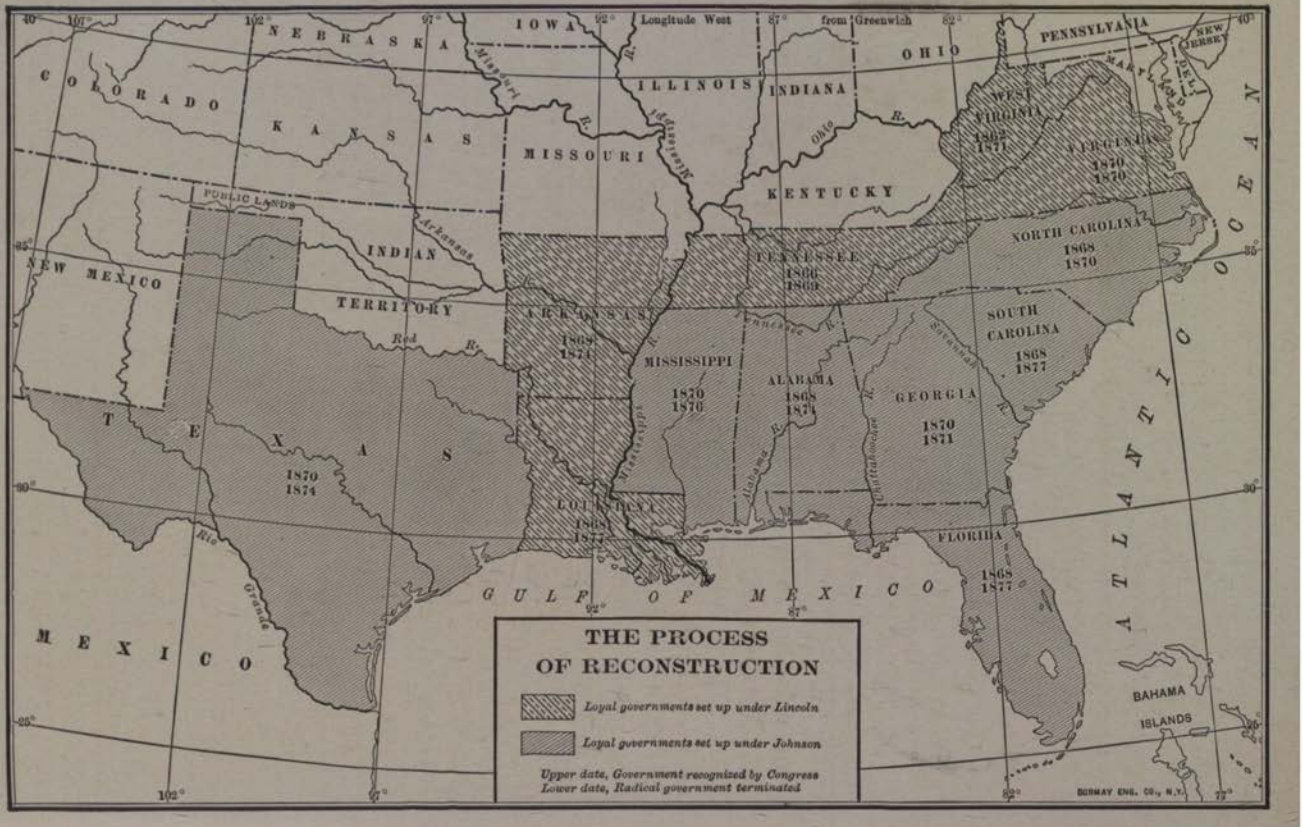
Forced contributions to the rebel cause in the form of taxes or military assessments, which a person was compelled to pay or contribute, did not disqualify; but voluntary contributions to the rebel cause, even such indirect contributions as arise from the voluntary loan of money to rebel authorities or purchase of bonds or securities created to afford the means of carrying on the rebellion, will work disqualification.

16. All those who in legislative or other official capacity were engaged in the furtherance of the common unlawful purpose, where the duties of the office necessarily had relation to the support of the rebellion, such as members of the rebel conventions, congresses, and legislatures, diplomatic agents of the rebel Confederacy, and other officials whose offices were created for the purpose of more effectually carrying on hostilities or whose duties appertained to the support of the rebel cause, must be held to be disqualified.

But officers who during the rebellion discharged official duties not incident to war, but only such duties as belong even to a state of peace and were necessary to the preservation of order and the administration of law, are not to be considered as thereby engaging in rebellion or as disqualified. Disloyal sentiments, opinions, or sympathies would not disqualify, but where a person has by speech or by writing incited others to engage in rebellion he must come under the disqualification.

17. *The duties of the board appointed to superintend the elections:*

This board, having the custody of the list of registered voters in the district for which it is constituted, must see that the name of the person offering to vote is found upon the registration list, and if such proves to be the fact it is the duty of the board to receive his vote if then qualified by residence. They can not receive the


NEBRASKA
COLORADO
KANSAS
IOWA
ILLINOIS
INDIANA
OHIO
PENNSYLVANIA
NEW JERSEY
MARYLAND
DELAWARE
MISSOURI
KENTUCKY
WEST VIRGINIA
1862
1871
VIRGINIA
1870
1870
NORTH CAROLINA
1868
1870
SOUTH CAROLINA
1868
1877
GEORGIA
1870
1871
FLORIDA
1868
1877
ALABAMA
1868
1874
MISSISSIPPI
1870
1870
LOUISIANA
1868
1877
TEXAS
1870
1874
TENNESSEE
1866
1869
ARKANSAS
1868
1874
NEW MEXICO
TERRITORY
INDIAN
TERRITORY
PUBLIC LANDS
MEXICO
GULF OF MEXICO
ATLANTIC OCEAN
BAHAMA ISLANDS
Missouri R.
Mississippi R.
Ohio R.
Arkansas R.
Red R.
Rio Grande
Tennessee R.
Cumberland R.
Alabama R.
Chattahoochee R.
Longitude West from Greenwich
40°
35°
30°
25°
102°
97°
92°
87°
82°
77°
THE PROCESS OF RECONSTRUCTION
Loyal governments set up under Lincoln
Loyal governments set up under Johnson
Upper date, Government recognized by Congress
Lower date, Radical government terminated
BURMAY ENG. CO., N.Y.

vote of any person whose name is not upon the list, though he may be ready to take the registration oath, and although he may satisfy them that he was unable to have his name registered at the proper time, in consequence of absence, sickness, or other cause.

The board can not enter into any inquiry as to the qualifications of any person whose name is not on the registration list, or as to the qualifications of any person whose name is on the list.

18. *The mode of voting* is provided in the Act to be by *ballot.* The board will keep a record and poll book of the election, showing the votes, lists of voters, and the persons elected by a plurality of the votes cast at the election, and make returns of these to the commanding general of the district.

19. The board appointed for registration and for superintending the elections must take the oath prescribed by the Act of Congress approved July 2, 1862, entitled "An Act to prescribe an oath of office."

By order of the President: E. D. TOWNSEND,
Assistant Adjutant-General.

Proclamations Against the Fenian Movement, 1866, 1870

In the course of the somewhat sensational life of this fruitless attempt to injure Great Britain by revolutionary tactics in her Canadian domain, two Presidents issued warning proclamations against the parties engaged in promoting an invasion from the United States, President Johnson on June 6, 1866, and President Grant on May 24, 1870. Both proclamations are here given. Text in "Messages and Papers of the Presidents, 1789–1897," edited by J. D. Richardson. Washington: Government Printing Office, 1897, Vol. VI., p. 433; Vol. VII., p. 85. (See pages 29–30.)

President Johnson's Proclamation

Whereas it has become known to me that certain evil-disposed persons have, within the territory and jurisdiction of the United States, begun and set on foot and have provided and prepared, and are still engaged in providing and preparing, means for a military expedition and enterprise, which expedition and enterprise is to be carried on from the territory and jurisdiction of the United States against colonies, districts, and people of British North America, within the dominions of the United Kingdom of Great Britain and Ireland, with which said colonies, districts, and people and Kingdom the United States are at peace; and

Whereas the proceedings aforesaid constitute a high

FENIANS!

Queen Victoria thanks President Johnson!

FOR WHAT DOES SHE THANK HIM?

For his interference in your Patriotic movements last Summer, and MAYOR HOFFMAN calls him "STATESMAN" and "PATRIOT!"

A FENIAN VOTE FOR HOFFMAN IS AN ENDORSEMENT OF JOHNSON'S INTERFERENCE.

Do Fenians approve of Johnson's Course?

President Johnson requested GOV. FENTON to order out our State Militia against the Fenians. The Governor declined. Then the President sends Gen. Meade, with U. S. Troops, to stop the Fenians: for which the LONDON TIMES the haughty organ of ENGLISH ARISTOCRACY praises President Johnson, and Mayor Hoffman calls him "Statesman!" "Patriot!"

A VOTE FOR HOFFMAN IS A VOTE FOR JOHNSON.

Can Fenians Vote for Johnson's Friend?

REDUCED FACSIMILE OF FIRST PAGE OF BROADSIDE, OCTOBER, 1866
(From an original copy in the New York Public Library)

misdemeanor, forbidden by the laws of the United States as well as by the law of nations:

Now, therefore, for the purpose of preventing the carrying on of the unlawful expedition and enterprise aforesaid from the territory and jurisdiction of the United States and to maintain the public peace as well as the national honor and enforce obedience and respect to the laws of the United States, I, Andrew Johnson, President of the United States, do admonish and warn all good citizens of the United States against taking part in or in any wise aiding, countenancing, or abetting said unlawful proceedings; and I do exhort all judges, magistrates, marshals, and officers in the service of the United States to employ all their lawful authority and power to prevent and defeat the aforesaid unlawful proceedings and to arrest and bring to justice all persons who may be engaged therein.

And, pursuant to the act of Congress in such case made and provided, I do furthermore authorize and empower Major-General George G. Meade, commander of the Military Division of the Atlantic, to employ the land and naval forces of the United States and the militia thereof to arrest and prevent the setting on foot and carrying on the expedition and enterprise aforesaid.

President Grant's Proclamation

Whereas it has come to my knowledge that sundry illegal military enterprises and expeditions are being set on foot within the territory and jurisdiction of the United States with a view to carry on the same from such territory and jurisdiction against the people and district of the Dominion of Canada, within the dominions of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, with whom the United States are at peace:

Now, therefore, I, Ulysses S. Grant, President of the

United States, do hereby admonish all good citizens of the United States and all persons within the territory and jurisdiction of the United States against aiding, countenancing, abetting, or taking part in such unlawful proceedings; and I do hereby warn all persons that by committing such illegal acts they will forfeit all right to the protection of the Government or to its interference in their behalf to rescue them from the consequences of their own acts; and I do hereby enjoin all officers in the service of the United States to employ all their lawful authority and power to prevent and defeat the aforesaid unlawful proceedings and to arrest and bring to justice all persons who may be engaged therein.

Treaty with Russia for the Cession of Alaska, 1867

The ratifications of this treaty were exchanged at Washington on June 20, 1867. On October 18th, following, the formal transfer was made at Sitka by Prince Maksutof, acting for the Russian Government, and General Rousseau, for the United States. From text in "Revised Statutes of the United States Relating to the District of Columbia [etc.], together with the public treaties." Washington: Government Printing Office, 1875, pp. 671–673. (See page 42.)

ARTICLE I

His Majesty the Emperor of all the Russias agrees to cede to the United States, by this convention, immediately upon the exchange of the ratifications thereof, all the territory and dominion now possessed by his said Majesty on the continent of America and in adjacent islands, the same being contained within the geographical limits herein set forth, to wit: The eastern limit is the line of demarcation between the Russian and the British possessions in North America, as established by the convention between Russia and Great Britain, of February 28–16, 1825, and described in Articles III and IV of said convention, in the following terms:

"Commencing from the southernmost point of the island called Prince of Wales Island, which point lies in

the parallel of 54 degrees 40 minutes north latitude, and between the 131st and 133d degree of west longitude (meridian of Greenwich), the said line shall ascend to the north along the channel called Portland Channel, as far as the point of the continent where it strikes the

ALEXANDER II.

(Emperor of Russia from 1855 to 1881, whose greatest achievement was the emanicipation of the serfs in 1861)

56th degree of north latitude; from this last-mentioned point, the line of demarcation shall follow the summit of the mountains situated parallel to the coast, as far as the point of intersection of the 141st degree of west longitude (of the same meridian); and finally, from the said point of intersection, the said meridian line of the

141st degree, in its prolongation as far as the Frozen Ocean.

"IV With reference to the line of demarcation laid down in the preceding article, it is understood—

"1st That the island called Prince of Wales Island shall belong wholly to Russia" (now, by this cession to the United States).

"2d That whenever the summit of the mountains which extend in a direction parallel to the coast from the 56th degree of north latitude to the point of intersection of the 141st degree of west longitude shall prove to be at the distance of more than ten marine leagues from the ocean, the limit between the British possessions and the line of coast which is to belong to Russia as above mentioned (that is to say, the limit to the possessions ceded by this convention), shall be formed by a line parallel to the winding of the coast, and which shall never exceed the distance of ten marine leagues therefrom."

The western limit within which the territories and dominion conveyed are contained passes through a point in Behring's Straits on the parallel of sixty-five degrees thirty minutes north latitude, at its intersection by the meridian which passes midway between the islands of Krusenstern or Ignalook, and the island of Ratmanoff, or Noonarbook, and proceed due north without limitation, into the same Frozen Ocean. The same western limit, beginning at the same initial point, proceeds thence in a course nearly southwest, through Behring's Straits and Behring's Sea, so as to pass midway between the northwest point of the island of St. Lawrence and the southeast point of Cape Choukotski, to the meridian of one hundred and seventy-two west longitude; thence, from the intersection of that meridian, in a southwesterly direction, so as to pass midway between the island of Attou and the Copper Island of the Kormandorski couplet or group, in the North

Pacific Ocean, to the meridian of one hundred and ninety-three degrees west longitude, so as to include in the territory conveyed the whole of the Aleutian Islands east of that meridian.

ARTICLE II

In the cession of territory and dominion made by the preceding article are included the right of property in all public lots and squares, vacant lands, and all public buildings, fortifications, barracks, and other edifices which are not private individual property. It is, however, understood and agreed, that the churches which have been built in the ceded territory by the Russian Government, shall remain the property of such members of the Greek Oriental Church resident in the territory as may choose to worship therein. Any Government archives, papers, and documents relative to the territory and dominion aforesaid, which may now be existing there, will be left in the possession of the agent of the United States; but an authenticated copy of such of them as may be required, will be, at all times, given by the United States to the Russian Government, or to such Russian officers or subjects as they may apply for.

LOVELL H. ROUSSEAU

(Commissioned Brigadier-General and assigned to duty in Alaska as its first American Governor in 1867)

ARTICLE III

The inhabitants of the ceded territory, according to their choice, reserving their natural allegiance, may return to Russia within three years; but if they should prefer to remain in the ceded territory, they, with the exception of uncivilized native tribes, shall be admitted to the enjoyment of all the rights, advantages, and immunities of citizens of the United States, and shall be maintained and protected in the free enjoyment of their liberty, property, and religion. The uncivilized tribes will be subject to such laws and regulations as the United States may from time to time adopt in regard to aboriginal tribes of that country.

ARTICLE IV

His Majesty, the Emperor of all the Russias shall appoint, with convenient despatch, an agent or agents for the purpose of formally delivering to a similar agent or agents, appointed on behalf of the United States, the territory, dominion, property, dependencies, and appurtenances which are ceded as above, and for doing any other act which may be necessary in regard thereto. But the cession, with the right of immediate possession, is nevertheless to be deemed complete and absolute on the exchange of ratifications, without waiting for such formal delivery.

ARTICLE V

Immediately after the exchange of the ratifications of this convention, any fortifications or military posts which may be in the ceded territory shall be delivered to the agent of the United States, and any Russian troops which may be in the territory shall be withdrawn as soon as may be reasonably and conveniently practicable.

ARTICLE VI

In consideration of the cession aforesaid, the United States agree to pay at the Treasury in Washington, within ten months after the exchange of the ratifications of this convention, to the diplomatic representative or other agent of His Majesty the Emperor of all the Russias, duly authorized to receive the same, seven million two hundred thousand dollars in gold. The cession of territory and dominion herein made is hereby declared to be free and unincumbered by any reservations, privileges, franchises, grants, or possessions, by any associated companies, whether corporate or incorporate, Russian or any other, or by any parties, except merely private individual property-holders; and the cession hereby made conveys all the rights, franchises, and privileges, now belonging to Russia in the said territory or dominion, and appurtenances thereto.

ARTICLE VII

When this convention shall have been duly ratified by the President of the United States, by and with the advice and consent of the Senate, on the one part, and, on the other, by His Majesty the Emperor of all the Russias, the ratifications shall be exchanged at Washington within three months from the date thereof, or sooner if possible.

Mexican Charges Against Maximilian, 1867

The accusations brought against Maximilian by the Mexican authorities are indicated in the following passage from the instruction of Juarez's Secretary of War to General Escobedo with regard to the disposal of his prisoners. Text from "American Annual Cyclopædia, 1867." New York: D. Appleton & Co., 1868, p. 489. (See page 42.)

The Archduke Ferdinand Maximilian of Hapsburg lent himself as the principal instrument in the work of iniquity which has afflicted the Republic, during five years, with all kinds of crime and every species of calamity. He came to oppress a people, pretending to destroy its constitution and laws without any other title than some votes of no value, since they were wrested by the presence and force of foreign bayonets. He came here and assumed voluntarily the most serious responsibilities, by a course condemned in the laws of all nations, and which had been foreseen and provided for in various former laws of the Republic, the last of which was that of January 25, 1862, defining crimes against the independence and safety of the nation, against the laws of nations, against personal rights, and the public peace and order. The notorious acts of Maximilian's career embrace the greater part of the liabilities specified in that law. Not only did he lend himself as an instrument of foreign intervention, but in order to wage on his own account a filibustering warfare, he brought hither other foreigners, Austrians and

BENITO PABLO JUAREZ

(President of Mexico in 1867. He caused the Emperor Maximilian to be executed)

Belgians, the subjects of foreign powers that were not at war with the Republic. He undertook to overthrow forever the political institutions and the government which the nation had freely set up for itself, maintaining that the supreme power had been abrogated merely by the votes of some persons appointed and delegated by the foreign invader or compelled by the presence and threats of a foreign soldiery. Through force and without any legal title he disposed of the lives, the rights, and the interests of the Mexicans. He promulgated a decree containing barbarous prescripts for the assassination of those Mexicans who were defending, or who refused to inform on those who were defending, the independence and the institutions of their country. He was the cause of numberless bloody executions under this barbarous decree, which he first applied to distinguished Mexican patriots who could not be presumed to have known as yet of its promulgation. He ordered his own soldiers, or at least he consented, under the false title of head of the nation, that soldiers of the foreign invasion should burn or destroy many whole towns throughout the Mexican territory, especially in the States of Michoacan, Sinaloa, Chihuahua, and Nuevo

EMPRESS CARLOTTA

(Wife of Emperor Maximilian of Mexico, who was executed by Juarez in 1867)

Leon. He ordered that his own agents, or consented that the agents of the foreigners, should assassinate many thousands of Mexicans to whom the defence of their country was imputed a crime. And when the armies of the foreign power withdrew, and he beheld the whole Republic aroused against him, he gathered around himself some of the most guilty men of our civil war and made use of all means, of violence, depredation, death, and devastation, in order to sustain to the last his false title which he was still unwilling to give up until he beheld himself obliged by force and in spite of his will to abandon it.

General Grant Made Practically Independent of the President, 1867

The Act of Congress making appropriations for the support of the army during the year ending June 30, 1868, approved March 2, 1867, contained a section (2) which practically transferred important functions of the President (Johnson) to the General of the army (Grant). This provision aroused keen debate on the question of its constitutionality, but the President, while protesting against it, approved the bill so as not to jeopardize the appropriations. The following is the text of this provision, from that of the full Act in "United States Statutes at Large," Vol. XIV., pp. 486–487. (See page 37.)

Sec. 2. *And be it further enacted,* That the headquarters of the General of the army of the United States shall be at the city of Washington, and all orders and instructions relating to military operations issued by the President or Secretary of War shall be issued through the General of the army, and, in case of his inability, through the next in rank. The General of the army shall not be removed, suspended, or relieved from command, or assigned to duty elsewhere than at said headquarters, except at his own request, without the previous approval of the Senate; and any orders or instructions relating to military operations issued contrary to the requirements of this section shall be null and void; and any officer who shall issue orders or instructions contrary to

the provisions of this section shall be deemed guilty of a misdemeanor in office; and any officer of the army who shall transmit, convey, or obey any orders or instructions so issued contrary to the provisions of this section, knowing that such orders were so issued, shall be liable to imprisonment for not less than two nor more than twenty years, upon conviction thereof in any court of competent jurisdiction.

. . . . . .

The President's Protest

March 2, 1867.

To the House of Representatives:

The act entitled "An act making appropriations for the support of the Army for the year ending June 30, 1868, and for other purposes" contains provisions to which I must call attention. Those provisions are contained in the second section, which in certain cases virtually deprives the President of his constitutional functions as Commander in Chief of the Army, and in the sixth section, which denies to ten States of this Union their constitutional right to protect themselves in any emergency by means of their own militia. Those provisions are out of place in an appropriation act. I am compelled to defeat these necessary appropriations if I withhold my signature to the act. Pressed by these considerations, I feel constrained to return the bill with my signature, but to accompany it with my protest against the sections which I have indicated.

The Johnson-Stanton Controversy, 1867–68

The official records of this notable controversy are voluminous, comprising documents bearing on each side of the issue. Besides his direct orders the President addressed two communications to the Senate: (1) in review of the different aspects of the case as he considered them, and (2) in reply to its resolution declaring that he had no constitutional power to remove the Secretary. The following are the salient points in the case, taken from the President's communications to the Senate, the first under date of December 12, 1867, the second under date of February 22, 1868. From "Messages and Papers of the Presidents, 1789–1897," edited by J. D. Richardson. Washington: Government Printing Office, 1897, Vol. VI., pp. 556, 583–584, 593–594, 622. (See page 54.)

The Order of Suspension

Executive Mansion,
Washington, August 12, 1867.

Hon. Edwin M. Stanton,
Secretary of War.

Sir: By virtue of the power and authority vested in me as President by the Constitution and laws of the United States, you are hereby suspended from office as Secretary of War, and will cease to exercise any and all functions pertaining to the same.

You will at once transfer to General Ulysses S. Grant, who has this day been authorized and empowered to act as Secretary of War *ad interim*, all records, books, and other property now in your custody and charge.

ANDREW JOHNSON.

GENERAL GRANT APPOINTED SECRETARY *Ad Interim*

EXECUTIVE MANSION,
Washington, D. C., August 12, 1867.

General ULYSSES S. GRANT,
Washington, D. C.

SIR: The Hon. Edwin M. Stanton having been this day suspended as Secretary of War, you are hereby authorized and empowered to act as Secretary of War *ad interim*, and wi l at once enter upon the discharge of the duties of the office.

The Secretary of War has been instructed to transfer to you all the records, books, papers, and other public property now in his custody and charge.

ANDREW JOHNSON.

STANTON'S REPLY TO THE ORDER OF SUSPENSION

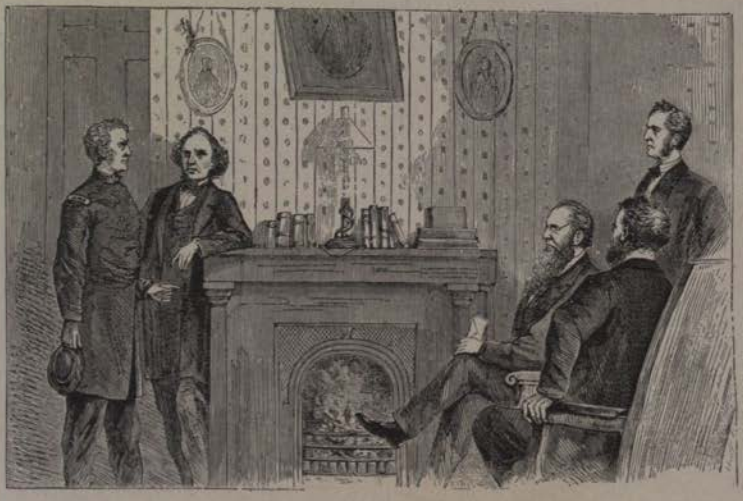
WAR DEPARTMENT,
Washington City, August 12, 1867.

THE PRESIDENT:

SIR: Your note of this date has been received, informing me that by virtue of the powers and authority vested in you as President by the Constitution and laws of the United States I am suspended from office as Secretary of War, and will cease to exercise any and all functions pertaining to the same, and a so directing me at once to transfer to General Ulysses S. Grant, who has this day been authorized and empowered to act as

Secretary of War *ad interim*, all records, books, papers, and other public property now in my custody and charge.

Under a sense of public duty I am compelled to deny your right under the Constitution and laws of the United States, without the advice and consent of the



GENERAL LORENZO THOMAS DEMANDING THE WAR OFFICE OF SECRETARY STANTON IN 1868 UPON AN ORDER FROM PRESIDENT JOHNSON

(Stanton, however, refused to vacate his post and Thomas did not assume office. From *Harper's Weekly*, March 14, 1868, sketched by Theodore R. Davis)

Senate and without any legal cause, to suspend me from office as Secretary of War or the exercise of any or all functions pertaining to the same, or without such advice and consent to compel me to transfer to any person the records, books, papers, and public property in my custody as Secretary.

But inasmuch as the General Commanding the armies of the United States has been appointed *ad interim*, and has notified me that he has accepted the appointment, I have no alternative but to submit, under protest, to superior force.

The President Asks Secretary Stanton's Resignation

Having waited full time for the voluntary action of Mr. Stanton, and seeing no manifestation on his part of an intention to resign, the President addressed him the following note on August 5th:

"Sir: Public considerations of a high character constrain me to say that your resignation as Secretary of War will be accepted."

Secretary's Refusal to Resign

Sir: Your note of this day has been received, stating that public considerations of a high character constrain you to say that my resignation as Secretary of War will be accepted.

In reply I have the honor to say that public considerations of a high character, which alone have induced me to continue at the head of this Department, constrain me not to resign the office of Secretary of War before the next meeting of Congress.

Senate Denial of Power of Removal

On February 21, 1868, the Senate adopted the following resolution:

"Whereas the Senate have received and considered the communication of the President stating that he had removed Edwin M. Stanton, Secretary of War, and had designated the Adjutant-General of the Army to act as Secretary of War *ad interim:* Therefore,

"*Resolved by the Senate of the United States,* That under the Constitution and laws of the United States the President has no power to remove the Secretary of War and designate any other officer to perform the duties of that office *ad interim.*"

The President's Conclusion on the "Complication"

After a lengthy argument on the above action of the Senate, the President concluded his reply as follows:

"I had indulged the hope that upon the assembling of Congress Mr. Stanton would have ended this unpleasant complication according to his intimation given in his note of August 12. The duty which I have felt myself called upon to perform was by no means agreeable, but I feel that I am not responsible for the controversy or for the consequences.

"Unpleasant as this necessary change in my Cabinet has been to me upon personal considerations, I have the consolation to be assured that so far as the public interests are involved there is no cause for regret."

Impeachment of President Johnson, 1868

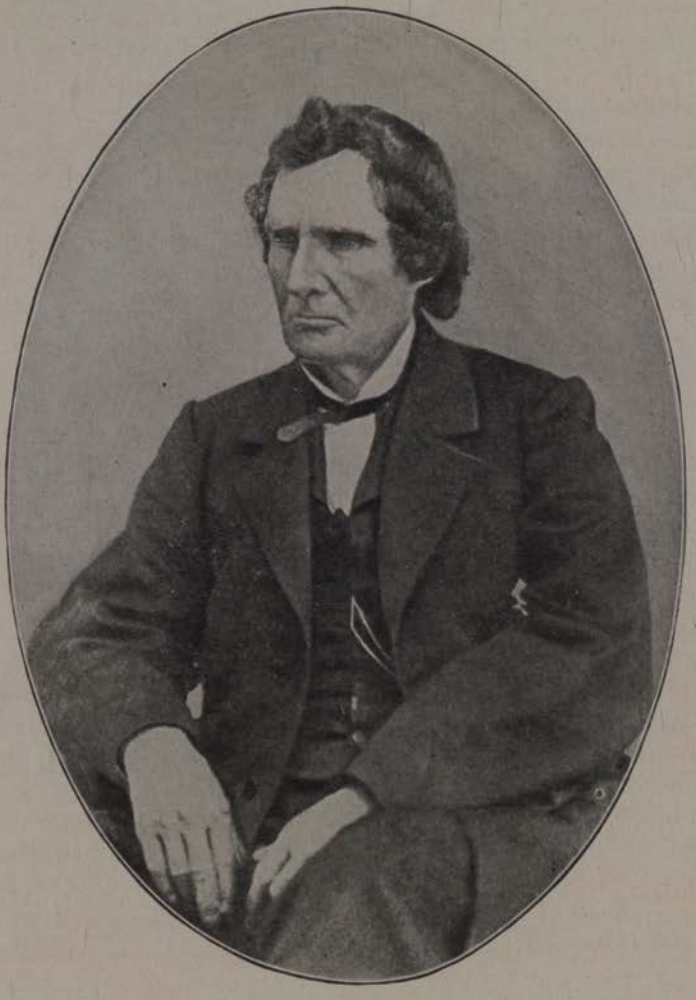
The proceedings against the President were initiated on January 7, 1867, when the House adopted a preamble and resolution on motion of Representative Ashley, of Ohio, impeaching the President of "high crimes and misdemeanors" specified in six charges. The Committee on the Judiciary, on February 22d, recommended impeachment. Eleven articles in all were prepared. The trial before the Senate, sitting as a High Court of Impeachment under the presidency of Chief-Justice Chase, extended from March 30th to May 12th. A vote was taken on May 26th, when thirty-five Senators voted for conviction and nineteen for acquittal; and the President was thus acquitted by one vote. Extracts from the articles of impeachment taken from "Senate Miscellaneous Documents No. 42," Fortieth Congress, Second Session (1867–68). Washington: Government Printing Office, 1868. (See page 54.)

ARTICLE I.

That said Andrew Johnson, President of the United States, on the 21st day of February, in the year of our Lord 1868, at Washington, in the District of Columbia, unmindful of the high duties of his office, of his oath of office, and of the requirement of the Constitution that he should take care that the laws be faithfully executed, did unlawfully, and in violation of the Constitution and

laws of the United States, issue an order in writing for the removal of Edwin M. Stanton from the office of Secretary for the Department of War, said Edwin M. Stanton having been theretofore duly appointed and commissioned, by and with the advice and consent of the Senate of the United States, as such Secretary, and said Andrew Johnson, President of the United States, on the 12th day of August, in the year of our Lord 1867, and during the recess of said Senate, having suspended by his order Edwin M. Stanton from said office; and within twenty days after the first day of the next meeting of said Senate—that is to say, on the 12th day of December, in the year last aforesaid—having reported to said Senate such suspension, with the evidence and reasons for his action in the case, and the name of the person designated to perform the duties of such office temporarily until the next meeting of the Senate, and said Senate thereafterward, on the 13th day of January, in the year of our Lord 1868, having duly considered the evidence and reasons reported by said Andrew Johnson for said suspension and having refused to concur in said suspension, whereby, and by force of the provisions of an act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867, said Edwin M. Stanton did forthwith resume the functions of his office, whereof the said Andrew Johnson had then and there due notice, and said Edwin M. Stanton, by reason of the premises, on said 21st day of February, being lawfully entitled to hold said office as Secretary for the Department of War, which said order for the removal of said Edwin M. Stanton is, in substance, as follows—that is to say: . . .

Which order was unlawfully issued, with intent then and there to violate the act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867; and, with the further intent, contrary to the provisions of said act, in violation thereof, and contrary to the pro-



THADDEUS STEVENS IN HIS LATER YEARS

(Chairman of the House Committee in charge of the impeachment of President Johnson)

visions of the Constitution of the United States, and without the advice and consent of the Senate of the United States, the said Senate then and there being in session, to remove said Edwin M. Stanton from the office of Secretary of the Department of War, the said Edwin M. Stanton being then and there Secretary of War, and being then and there in due and lawful execution and discharge of the duties of said office, whereby said Andrew Johnson, President of the United States, did then and there commit and was guilty of a high misdemeanor in office.

ARTICLE II.

That on the said 21st day of February, in the year of our Lord 1868, at Washington, in the District of Columbia, said Andrew Johnson, President of the United States, unmindful of the high duties of his office, of his oath of office, and in violation of the Constitution of the United States, and contrary to the provisions of an act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867, without the advice and consent of the Senate of the United States, said Senate then and there being in session, and without authority of law, did, with intent to violate the Constitution of the United States and the act aforesaid, issue and deliver to one Lorenzo Thomas a letter of authority, in substance as follows, that is to say: . . .

then and there being no vacancy in said office of Secretary for the Department of War; whereby said Andrew Johnson, President of the United States, did then and there commit and was guilty of a high misdemeanor in office.

ARTICLE III.

That said Andrew Johnson, President of the United States, on the 21st day of February, in the year of our Lord 1868, at Washington, in the District of Columbia,

THE IMPEACHMENT COMMITTEE PREPARING THE INDICTMENT

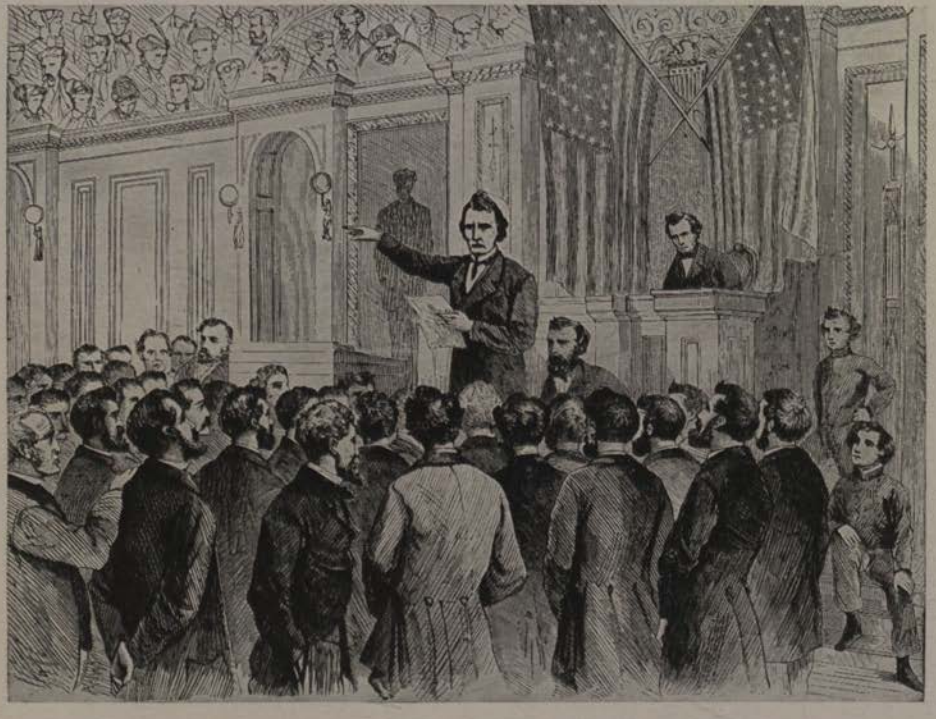
(From a sketch made at the time for *Harper's Weekly* by Theodore R. Davis)

did commit and was guilty of a high misdemeanor in office, in this, that, without authority of law, while the Senate of the United States was then and there in session, he did appoint one Lorenzo Thomas to be Secretary for the Department of War, *ad interim*, without the advice and consent of the Senate, and with intent to violate the Constitution of the United States, no vacancy having happened in said office of Secretary for the Department of War during the recess of the Senate, and no vacancy existing in said office at the time, and which said appointment, so made by said Andrew Johnson, of said Lorenzo Thomas, is in substance as follows, that is to say:

(Same as in Article II.)

ARTICLE IV.

That said Andrew Johnson, President of the United States, unmindful of the high duties of his office, and of his oath of office, in violation of the Constitution and laws of the United States, on the 21st day of February, in the year of our Lord 1868, at Washington, in the District of Columbia, did unlawfully conspire with one Lorenzo Thomas, and with other persons, to the House of Representatives unknown, with intent by intimidation and threats unlawfully to hinder and prevent Edwin M. Stanton, then and there the Secretary for the Department of War, duly appointed under the laws of the United States, from holding said office of Secretary for the Department of War, contrary to and in violation of the Constitution of the United States, and of the provisions of an act entitled "An act to define and punish certain conspiracies," approved July 31, 1861, whereby said Andrew Johnson, President of the United States, did then and there commit and was guilty of a high crime in office.



THADDEUS STEVENS CLOSING THE HOUSE DEBATE UPON IMPEACHMENT

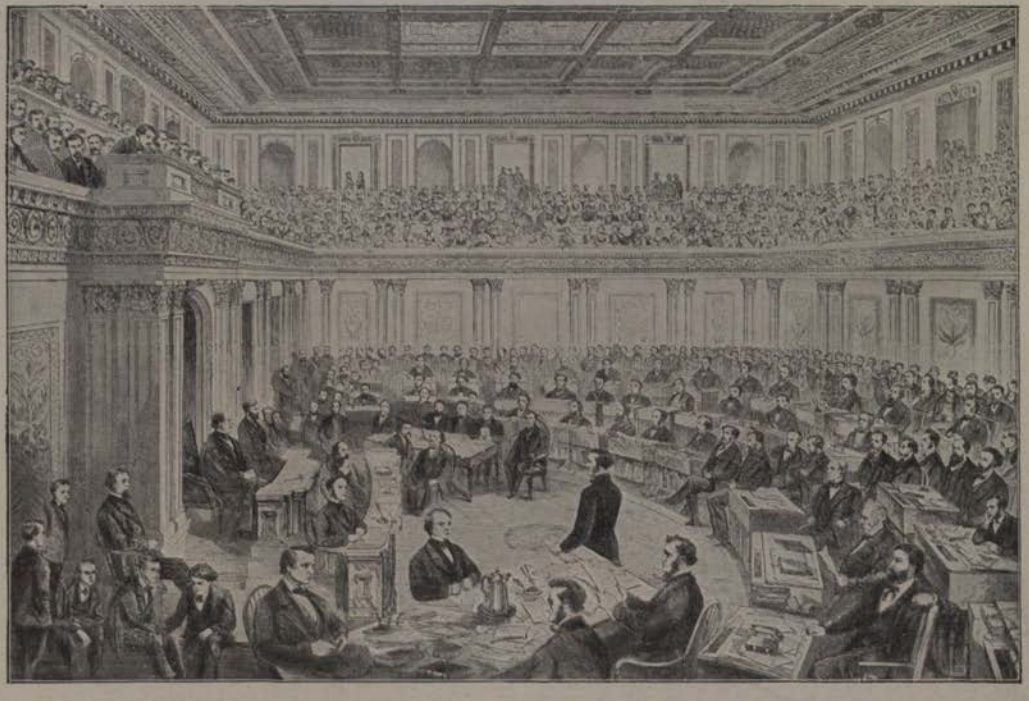
(From a sketch made at the time for *Harper's Weekly* by Theodore R. Davis)

ARTICLE V.

That said Andrew Johnson, President of the United States, unmindful of the high duties of his office, and of his oath of office, on the 21st day of February, in the year of our Lord 1868, and on divers other days and times in said year, before the 2d day of March, A.D. 1868, at Washington, in the District of Columbia, did unlawfully conspire with one Lorenzo Thomas, and with other persons to the House of Representatives unknown, to prevent and hinder the execution of an act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867, and in pursuance of said conspiracy did unlawfully attempt to prevent Edwin M. Stanton, then and there being Secretary for the Department of War, duly appointed and commissioned under the laws of the United States, from holding said office, whereby the said Andrew Johnson, President of the United States, did then and there commit and was guilty of a high misdemeanor in office.

ARTICLE VI.

That said Andrew Johnson, President of the United States, unmindful of the high duties of his office and of his oath of office, on the 21st day of February, in the year of our Lord 1868, at Washington, in the District of Columbia, did unlawfully conspire with one Lorenzo Thomas by force to seize, take, and possess the property of the United States in the Department of War, then and there in the custody and charge of Edwin M. Stanton, Secretary for said Department, contrary to the provisions of an act entitled "An act to define and punish certain conspiracies," approved July 31, 1861, and with intent to violate and disregard an act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867, whereby said Andrew Johnson,



THE SENATE AS A COURT OF IMPEACHMENT FOR THE TRIAL

(From a sketch made at the time for *Harper's Weekly* by Theodore R. Davis)

President of the United States, did then and there commit a high crime in office.

ARTICLE VII.

That said Andrew Johnson, President of the United States, unmindful of the high duties of his office and of his oath of office, on the 21st day of February, in the year of our Lord 1868, at Washington, in the District of Columbia, did unlawfully conspire with one Lorenzo Thomas with intent unlawfully to seize, take, and possess the property of the United States in the Department of War, in the custody and charge of Edwin M. Stanton, Secretary of said Department, with intent to violate and disregard the act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867, whereby said Andrew Johnson, President of the United States, did then and there commit a high misdemeanor in office.

ARTICLE VIII.

That said Andrew Johnson, President of the United States, unmindful of the high duties of his office and of his oath of office, with intent unlawfully to control the disbursement of the moneys appropriated for the military service and for the Department of War, on the 21st day of February, in the year of our Lord 1868, at Washington, in the District of Columbia, did unlawfully and contrary to the provisions of an act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867, and in violation of the Constitution of the United States, and without the advice and consent of the Senate of the United States, and while the Senate was then and there in session, there being no vacancy in the office of Secretary for the Department of War, with intent to violate and disregard the act aforesaid, then and there issue and deliver to one Lorenzo Thomas a

NEWSPAPER ROW, WASHINGTON, THE NIGHT AFTER THE TRIAL

(From a sketch made at the time for *Harper's Weekly* by Theodore R. Davis)

letter of authority in writing, in substance as follows, that is to say:

(Same as in Article II.)

Whereby said Andrew Johnson, President of the United States, did then and there commit and was guilty of a high misdemeanor in office.

ARTICLE IX.

That said Andrew Johnson, President of the United States, on the 22d day of February, in the year of our Lord 1868, at Washington, in the District of Columbia, in disregard of the Constitution and the laws of the United States, duly enacted, as commander-in-chief of the army of the United States, did bring before himself then and there William H. Emory, a major-general by brevet in the army of the United States, actually in command of the Department of Washington and the military forces thereof, and did then and there, as such commander-in-chief, declare to and instruct said Emory that part of a law of the United States, passed March 2, 1867, entitled "An act making appropriations for the support of the army for the year ending June 30, 1868, and for other purposes," especially the second section thereof, which provides, among other things, that "all orders and instructions, relating to military operations, issued by the President or Secretary of War, shall be issued through the general of the army, and, in case of his inability, through the next in rank," was unconstitutional, and in contravention of the commission of said Emory, and which said provisions of law had been theretofore duly and legally promulgated by general order for the government and direction of the army of the United States, as the said Andrew Johnson then and there well knew, with intent thereby to induce said Emory, in his official capacity as commander of the Department of Washington, to violate the provisions of said act, and

to take and receive, act upon, and obey such orders as he, the said Andrew Johnson, might make and give, and which should not be issued through the general of the army of the United States, according to the provisions of said act, and with the further intent thereby to enable him, the said Andrew Johnson, to prevent the execution of an act entitled "An act regulating the tenure of certain civil offices," passed March 2, 1867, and to unlawfully prevent Edwin M. Stanton, then being Secretary for the Department of War, from holding said office and discharging the duties thereof, whereby said Andrew Johnson, President of the United States, did then and there commit and was guilty of a high misdemeanor in office.

ARTICLE X.

That said Andrew Johnson, President of the United States, unmindful of the high duties of his office and the dignity and proprieties thereof, and of the harmony and courtesies which ought to exist and be maintained between the executive and legislative branches of the government of the United States, designing and intending to set aside the rightful authority and powers of Congress, did attempt to bring into disgrace, ridicule, hatred, contempt, and reproach the Congress of the United States and the several branches thereof, to impair and destroy the regard and respect of all the good people of the United States for the Congress and legislative power thereof (which all officers of the government ought inviolably to preserve and maintain), and to excite the odium and resentment of all the good people of the United States against Congress and the laws by it duly and constitutionally enacted; and, in pursuance of said design and intent, openly and publicly, and before divers assemblages of the citizens of the United States convened in divers parts thereof to meet and receive said

Andrew Johnson, as the chief magistrate of the United States, did, on the 18th day of August, in the year of our Lord 1866, and on divers other days and times, as well before as afterwards, make and deliver, with a loud voice, certain intemperate, inflammatory, and scandalous harangues, and did therein utter loud threats and bitter menaces as well against Congress as the laws of the United States duly enacted thereby, amid the cries, jeers, and laughter of the multitudes then assembled and within hearing, which are set forth in the several specifications hereinafter written, in substance and effect, that is to say:

THE PRESIDENT'S JOY AT THE RESULT OF THE IMPEACHMENT TRIAL

(From a cartoon by Thomas Nast)

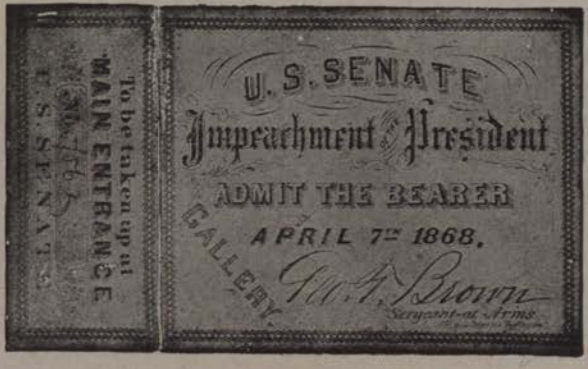
[Here are set out three specifications, quoting parts of speeches alleged to have been made by the President, Aug. 18, Sept. 3, and Sept. 8, 1866.]

which said utterances, declarations, threats, and harangues, highly censurable in any, are peculiarly indecent and unbecoming to the chief magistrate of the United States, by means whereof said Andrew Johnson has brought the high office of the President of the United States into contempt, ridicule, and disgrace, to the great scandal of all good citizens, whereby said Andrew Johnson, President of the United States, did commit and was then and there guilty of a high misdemeanor in office.

ARTICLE XI.

That said Andrew Johnson, President of the United States, unmindful of the high duties of his office and of his oath of office, and in disregard of the Constitution

and laws of the United States, did heretofore, to wit: on the 18th day of August, 1866, at the city of Washington, in the District of Columbia, by public speech, declare and affirm in substance that the Thirty-ninth Congress of the United States was not a Congress of the United States authorized by the Constitution to exercise legislative power under the same, but, on the contrary,



TICKET OF ADMISSION TO IMPEACHMENT TRIAL OF PRESIDENT JOHNSON

was a Congress of only part of the States, thereby denying and intending to deny that the legislation of said Congress was valid or obligatory upon him, the said Andrew Johnson, except in so far as he saw fit to approve the same, and also thereby denying and intending to deny the power of said Thirty-ninth Congress to propose amendments to the Constitution of the United States; and, in pursuance of said declaration, the said Andrew Johnson, President of the United States, afterwards, to wit: on the 21st day of February, 1868, at the city of Washington, in the District of Columbia, did unlawfully and in disregard of the requirements of the Constitution, that he should take care that the laws be faithfully executed, attempt to prevent the execution of an act entitled "An act regulating the tenure of cer-

tain civil offices," passed March 2, 1867, by unlawfully devising and contriving, and attempting to devise and contrive, means by which he should prevent Edwin M. Stanton from forthwith resuming the functions of the office of Secretary for the Department of War, notwithstanding the refusal of the Senate to concur in the suspension theretofore made by Andrew Johnson of said Edwin M. Stanton from said office of Secretary for the Department of War, and also by further unlawfully devising and contriving, and attempting to devise and contrive, means then and there to prevent the execution of an act entitled "An act making appropriations for the support of the army for the fiscal year ending June 30, 1868, and for other purposes," approved March 2, 1867, and also to prevent the execution of an act entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867; whereby the said Andrew Johnson, President of the United States, did then, to wit: on the 21st day of February, 1868, at the city of Washington, commit and was guilty of a high misdemeanor in office.

President Grant's First Inaugural Address, 1869

In this paper we have the first expressions of the great soldier on the political issues of the day, made exceptional by the extraordinary conditions that arose from the events of the Civil War period. Text from "Messages and Papers of the Presidents, 1789–1897," edited by J. D. Richardson. Washington: Government Printing Office, 1897, Vol. VII., pp. 6–8. (See page 57.)

Citizens of the United States:

Your suffrages having elected me to the office of President of the United States, I have, in conformity to the Constitution of our country, taken the oath of office prescribed therein. I have taken this oath without mental reservation and with the determination to do to the best of my ability all that is required of me. The responsibilities of the position I feel, but accept them without fear. The office has come to me unsought; I commence its duties untrammeled. I bring to it a conscious desire and determination to fill it to the best of my ability to the satisfaction of the people.

On all leading questions agitating the public mind I will always express my views to Congress and urge them according to my judgment, and when I think it advisable will exercise the constitutional privilege of interposing a veto to defeat measures which I oppose; but all laws will be faithfully executed, whether they meet my approval or not.

I shall on all subjects have a policy to recommend, but none to enforce against the will of the people. Laws are to govern all alike—those opposed as well as those who favor them. I know no method to secure the repeal of bad or obnoxious laws so effective as their stringent execution.

The country having just emerged from a great rebellion, many questions will come before it for settlement for the next four years which preceding Administrations have never had to deal with. In meeting these it is desirable that they should be approached calmly, without prejudice, hate, or sectional pride, remembering that the greatest good to the greatest number is the object to be attained.

This requires security of person, property, and free religious and political opinion in every part of our common country, without regard to local prejudice. All laws to secure these ends will receive my best efforts for their enforcement.

A great debt has been contracted in securing to us and our posterity the Union. The payment of this, principal and interest, as well as the return to a specie basis as soon as it can be accomplished without material detriment to the debtor class or to the country at large, must be provided for. To protect the national honor, every dollar of Government indebtedness should be paid in gold, unless otherwise expressly stipulated in the contract. Let it be understood that no repudiator of one farthing of our public debt will be trusted in public place, and it will go far toward strengthening a credit which ought to be the best in the world, and will ultimately enable us to replace the debt with bonds bearing less interest than we now pay. To this should be added a faithful collection of the revenue, a strict accountability to the Treasury for every dollar collected, and the greatest practicable retrenchment in expenditure in every department of Government.

When we compare the paying capacity of the country now, with the ten States in poverty from the effects of war, but soon to emerge, I trust, into greater prosperity than ever before, with its paying capacity twenty-five years ago, and calculate what it probably will be twenty-

BIRTHPLACE OF ULYSSES S. GRANT, POINT PLEASANT, OHIO

five years hence, who can doubt the feasibility of paying every dollar then with more ease than we now pay for useless luxuries? Why, it looks as though Providence had bestowed upon us a strong box in the precious metals locked up in the sterile mountains of the far West, and which we are now forging the key to unlock, to meet the very contingency that is now upon us.

Ultimately it may be necessary to insure the facilities

to reach these riches, and it may be necessary also that the General Government should give its aid to secure this success; but that should only be when a dollar of obligation to pay secures precisely the same sort of dollar to use now, and not before. Whilst the question of specie payments is in abeyance the prudent business man is careful about contracting debts payable in the distant future. The nation should follow the same rule. A prostrate commerce is to be rebuilt and all industries encouraged.

MRS. U. S. GRANT
(From a photograph taken about 1876)

The young men of the country—those who from their age must be its rulers twenty-five years hence—have a peculiar interest in maintaining the national honor. A moment's reflection as to what will be our commanding influence among the nations of the earth in their day, if they are only true to themselves, should inspire them with national pride. All divisions—geographical, political, and religious—can join in this common sentiment. How the public debt is to be paid or specie payments resumed is not so important as that a plan should be adopted and acquiesced in. A united determination to do is worth more than divided counsels upon the method of doing. Legislation upon this subject may not be necessary now, nor even advisable, but it will be when

the civil law is more fully restored in all parts of the country and trade resumes its wonted channels.

It will be my endeavor to execute all laws in good faith, to collect all revenues assessed, and to have them properly accounted for and economically disbursed. I will to the best of my ability appoint to office those only who will carry out this design.

In regard to foreign policy, I would deal with nations as equitable law requires individuals to deal with each other, and I would protect the law-abiding citizen, whether of native or foreign birth, wherever his rights are jeopardized or the flag of our country floats. I would respect the rights of all nations, demanding equal respect for our own. If others depart from this rule in their dealings with us, we may be compelled to follow their precedent.

The proper treatment of the original occupants of this land—the Indians—is one deserving of careful study. I will favor any course toward them which tends to their civilization and ultimate citizenship.

The question of suffrage is one which is likely to agitate the public so long as a portion of the citizens of the nation are excluded from its privileges in any State. It seems to me very desirable that this question should be settled now, and I entertain the hope and express the desire that it may be by the ratification of the fifteenth article of amendment to the Constitution.

In conclusion I ask patient forbearance one toward another throughout the land, and a determined effort on the part of every citizen to do his share toward cementing a happy union; and I ask the prayers of the nation to Almighty God in behalf of this consummation.

President Grant's San Domingo Message, 1870

Despite the strong opposition of the Senate Committee on Foreign Affairs, President Grant persistently urged, at every opportunity, the acquisition of Santo Domingo. In the followings pecial message to the Senate, under date of May 31, 1870, he recapitulated the arguments he had elsewhere advanced in support of the project, and detailed economic benefits he deemed certain to follow annexation. Text in "Messages and Papers of the Presidents, 1789–1897," edited by J. D. Richardson. Washington: Government Printing Office, 1897, Vol. VII., pp. 61–63. (See page 80.)

To the Senate of the United States:

I transmit to the Senate, for consideration with a view to its ratification, an additional article to the treaty of the 29th of November last, for the annexation of the Dominican Republic to the United States, stipulating for an extension of the time for exchanging the ratifications thereof, signed in this city on the 14th instant by the plenipotentiaries of the parties.

It was my intention to have also negotiated with the plenipotentiary of San Domingo amendments to the treaty of annexation to obviate objections which may be urged against the treaty as it is now worded; but on reflection I deem it better to submit to the Senate the propriety of their amending the treaty as follows: First, to specify that the obligations of this Government shall not exceed the $1,500,000 stipulated in the

PRESIDENT GRANT'S CABINET IN SESSION

(From a drawing by W. S. L. Jewett, published in *Harper's Weekly*, April 3, 1869. Left to right the members are: Jacob D. Cox, Hamilton Fish, John A. Rawlins, John A. J. Cresswell, President Grant, George S. Boutwell, Adolph E. Borie, Ebenezer R. Hoar)

treaty; secondly, to determine the manner of appointing the agents to receive and disburse the same; thirdly, to determinet he class of creditors who shall take precedence in the settlement of their claims; and, finally, to insert such amendments as may suggest themselves to the minds of Senators to carry out in good faith the conditions of the treaty submitted to the Senate of the United States in January last, according to the spirit and intent of that treaty. From the most reliable information I can obtain, the sum specified in the treaty will pay every just claim against the Republic of San Domingo and leave a balance sufficient to carry on a Territorial government until such time as new laws for providing a Territorial revenue can be enacted and put in force.

I feel an unusual anxiety for the ratification of this treaty, because I believe it will redound greatly to the glory of the two countries interested, to civilization, and to the extirpation of the institution of slavery.

The doctrine promulgated by President Monroe has been adhered to by all political parties, and I now deem it proper to assert the equally important principle that hereafter no territory on this continent shall be regarded as subject of transfer to a European power.

The Government of San Domingo has voluntarily sought this annexation. It is a weak power, numbering probably less than 120,000 souls, and yet possessing one of the richest territories under the sun, capable of supporting a population of 10,000,000 people in luxury. The people of San Domingo are not capable of maintaining themselves in their present condition, and must look for outside support.

They yearn for the protection of our free institutions and laws, our progress and civilization. Shall we refuse them?

I have information which I believe reliable that a European power stands ready now to offer $2,000,000

for the possession of Samana Bay alone. If refused by us, with what grace can we prevent a foreign power from attempting to secure the prize?

The acquisition of San Domingo is desirable because of its geographical position. It commands the entrance to the Caribbean Sea and the Isthmus transit of commerce. It possesses the richest soil, best and most capacious harbors, most salubrious climate, and the most valuable products of the forests, mine, and soil of any of the West India Islands. Its possession by us will in a few years build up a coastwise commerce of immense magnitude, which will go far toward restoring to us our lost merchant marine. It will give to us those articles which we consume so largely and do not produce, thus equalizing our exports and imports.

BUENA VENTURA BAEZ

(President of Santo Domingo from 1849 to 1853, and elected in 1865 for the third time. He advocated annexation of his country to the United States, but the treaty which he and President Grant drew up in 1869 was rejected by the United States Senate)

In case of foreign war it will give us command of all the islands referred to, and thus prevent an enemy from ever again possessing himself of rendezvous upon our very coast.

At present our coast trade between the States bordering on the Atlantic and those bordering on the Gulf of Mexico is cut into by the Bahamas and the Antilles. Twice we must, as it were, pass through foreign countries to get by sea from Georgia to the west coast of Florida.

San Domingo, with a stable government, under which the immense resources can be developed, will give remunerative wages to tens of thousands of laborers not now on the island.

This labor will take advantage of every available means of transportation to abandon the adjacent islands

UNITED STATES MINISTER'S HOUSE, PORT-AU-PRINCE, SANTO DOMINGO

and seek the blessings of freedom and its sequence—each inhabitant receiving the reward of his own labor. Porto Rico and Cuba will have to abolish slavery, as a measure of self-preservation to retain their laborers.

San Domingo will become a large consumer of the product of Northern farms and manufactories. The cheap rate at which her citizens can be furnished with food, tools, and machinery will make it necessary that the contiguous islands should have the same advantages in order to compete in the production of sugar, coffee, tobacco, tropical fruits, etc. This will open to us a still wider market for our products.

The production of our own supply of these articles will cut off more than one hundred millions of our annual imports, besides largely increasing our exports. With such a picture it is easy to see how our large debt abroad is ultimately to be extinguished. With a balance of trade against us (including interest on bonds held by foreigners and money spent by our citizens traveling in foreign lands) equal to the entire yield of the precious metals in this country, it is not so easy to see how this result is to be otherwise accomplished.

The acquisition of San Domingo is an adherence to the "Monroe Doctrine"; it is a measure of national protection; it is asserting our just claim to a controlling influence over the great commercial traffic soon to flow from east to west by the way of the Isthmus of Darien; it is to build up our merchant marine; it is to furnish new markets for the products of our farmers, shops, and manufactories; it is to make slavery insupportable in Cuba and Porto Rico at once and ultimately so in Brazil; it is to settle the unhappy condition of Cuba, and end an exterminating conflict; it is to provide honest means of paying our honest debts, without overtaxing the people; it is to furnish our citizens with the necessaries of everyday life at cheaper rates than ever before; and it is, in fine, a rapid stride toward that greatness which the intelligence, industry, and enterprise of the citizens of the United States entitle this country to assume among nations.

Civil Service Reform Rules, 1871

In response to a recommendation in President Grant's annual message of December 5, 1870, for measures to reform the civil service of the country, the Congress, on March 3, 1871, authorized him to prescribe rules for the purpose. Under this Act a commission was appointed and for two years appropriations were made for its work. Then, despite the further recommendation of President Grant as well as that of President Hayes, no further action was taken until Congress enacted the law of January 16, 1883. The following is President Grant's letter of transmittal and the rules prepared by the commission under the Act of 1871. Text from "Messages and Papers of the Presidents, 1789–1897," edited by J. D. Richardson. Washington: Government Printing Office, 1897, Vol. VII., pp. 156–159. (See page 88.)

Letter of Transmittal.

Executive Mansion,
December 19, 1871.

To the Senate and House of Representatives:

In accordance with the act of Congress approved March 3, 1871, I convened a commission of eminent gentlemen to devise rules and regulations for the purpose of reforming the civil service. Their labors are now completed, and I transmit herewith their report, together with the rules which they recommend for my action. These rules have been adopted and will go into effect on the 1st day of January, 1872.

"CHILDREN CRY FOR IT"

U. S. G. "IF YOU CAN STAND IT I CAN"

"If bad men have secured places, it has been the fault of the system established by law and custom for making appointments, or the fault of those who recommend for government positions persons not sufficiently well known to them personally, or who give letters indorsing the character of office-seekers without a proper sense of the grave responsibility which such a course devolves upon them. A civil service reform which can correct this abuse is much desired."—*Grant's Message.*

GRANT OFFERS THE CIVIL SERVICE BROTH TO SCHURZ, SUMNER, TRUMBULL, FENTON AND OTHERS. THIS PICTURE GREATLY DISTURBED MR. CURTIS

(From a cartoon by Thomas Nast, published at the time in *Harper's Weekly*)

Under the law referred to, as I interpret it, the authority is already invested in the Executive to enforce these regulations, with full power to abridge, alter, or amend them, at his option, when changes may be deemed advisable.

These views, together with the report of the commissioners, are submitted for your careful consideration as to whether further legislation may be necessary in order to carry out an effective and beneficial civil-service reform. If left to me, without further Congressional action, the rules prescribed by the commission, under the reservation already mentioned, will be faithfully executed; but they are not binding, without further legislation, upon my successors.

Being desirous of bringing this subject to the attention of Congress before the approaching recess, I have not time to sufficiently examine the accompanying report to enable me to suggest definite legislative action to insure the support which may be necessary in order to give a thorough trial to a policy long needed.

I ask for all the strength which Congress can give me to enable me to carry out the reforms in the civil service recommended by the commission, and adopted to take effect, as before stated, on January 1, 1872.

The law which provides for the convening of a commission to devise rules and regulations for reforming the civil service authorizes, I think, the permanent organization of a primary board under whose general direction all examinations of applicants for public office shall be conducted. There is no appropriation to continue such a board beyond the termination of its present labors. I therefore recommend that a proper appropriation be made to continue the services of the present board for another year, and in view of the fact that three members of the board hold positions in the public service, which precludes them from receiving extra compensation under existing laws, that they be authorized

to receive a fair compensation for extra services rendered by them in the performance of this duty.

U. S. GRANT.

RULES FOR THE CIVIL SERVICE

1. No person shall be admitted to any position in the civil service within the appointment of the President or the heads of Departments who is not a citizen of the United States; who shall not have furnished satisfactory evidence in regard to character, health, and age, and who shall not have passed a satisfactory examination in speaking, reading, and writing the English language.

2. An advisory board of suitable persons, to be employed by the President under the ninth section of the act of March 3, 1871, entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1872, and for other purposes," shall, so far as practicable, group the positions in each branch of the civil service according to the character of the duties to be performed, and shall grade each group from lowest to highest for the purpose of promotion within the group. Admission to the civil service shall always be to the lowest grade of any group; and to such positions as can not be grouped or graded admission shall be determined as provided for the lowest grade.

3. A vacancy occurring in the lowest grade of any group of offices shall be filled, after due public notice, from all applicants who shall present themselves, and who shall have furnished the evidence and satisfied the preliminary examination already mentioned, and who shall have passed a public competitive examination to test knowledge, ability, and special qualifications for the performance of the duties of the office. The board conducting such competitive examination shall prepare, under the supervision of the Advisory Board, a list of

the names of the applicants in the order of their excellence as proved by such examination, beginning with the highest, and shall then certify to the nominating or appointing power, as the case may be, the names standing at the head of such list, not exceeding three, and from the names thus certified the appointment shall be made.

4. A vacancy occurring in any grade of a group of offices above the lowest shall be filled by a competitive examination of applicants from the other grades of that group, and the list of names from which the appointment is to be made shall be prepared and certified as provided in the preceding rule; but if no such applicants are found competent the appointment shall be made upon an examination of all applicants, conducted in accordance with the provisions for admission to the lowest grade.

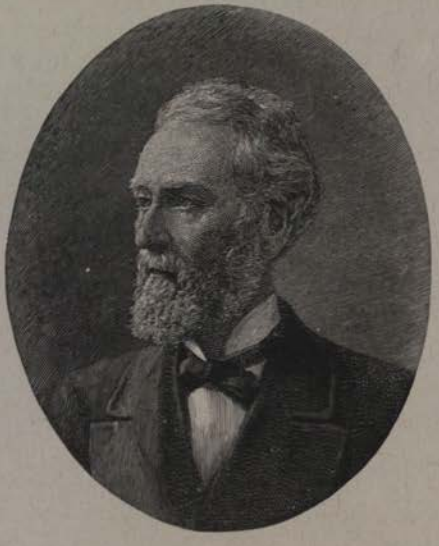
5. Applicants certified as otherwise qualified for appointment as cashiers of collectors of customs, cashiers of assistant treasurers, cashiers of postmasters, superintendents of money-order divisions in post-offices, and such other custodians of large sums of money as may hereafter be designated by the Advisory Board, and for whose pecuniary fidelity another officer is responsible, shall, nevertheless, not be appointed except with the approval of such other officer.

6. Postmasters whose annual salary is less than $200 may be appointed upon the written request of applicants, with such evidence of character and fitness as shall be satisfactory to the head of the Department.

7. The appointment of all persons entering the civil service in accordance with these regulations, excepting persons appointed by the President by and with the advice and consent of the Senate, postmasters, and persons appointed to any position in a foreign country, shall be made for a probationary term of six months, during which the conduct and capacity of such persons

shall be tested; and if at the end of said probationary term satisfactory proofs of their fitness shall have been furnished by the board of examiners to the head of the Department in which they shall have been employed during said term, they shall be reappointed.

8. The President will designate three persons in each Department of the public service to serve as a board of examiners, which, under the supervision of the Advisory Board and under regulations to be prescribed by it, and at such times and places as it may determine, shall conduct, personally or by persons approved by the Advisory Board, all investigations and examinations for admission into said Departments or for promotion therein.



JOSEPH MEDILL

(Member of the first Civil Service Commission in 1871 appointed by President Grant. One of the organizers of the Republican party in Ohio in 1854. With two partners he bought the Chicago *Tribune* in 1856)

9. Any person who, after long and faithful service in a Department, shall be incapacitated by mental or bodily infirmity for the efficient discharge of the duties of his position may be appointed by the head of the Department, at his discretion, to a position of less responsibility in the same Department.

10. Nothing in these rules shall prevent the appointment of aliens to positions in the consular service which by reason of small compensation or of other sufficient cause are, in the judgment of the appointing power,

necessarily so filled, nor the appointment of such persons within the United States as are indispensable to a proper discharge of the duties of certain positions, but who may not be familiar with the English language or legally capable of naturalization.

11. No head of a Department nor any subordinate officer of the Government shall, as such officer, authorize or permit or assist in levying any assessment of money for political purposes, under the form of voluntary contributions or otherwise, upon any person employed under his control, nor shall any such person pay any money so assessed.

12. The Advisory Board shall at any time recommend to the President such changes in these rules as it may consider necessary to secure the greater efficiency of the civil service.

13. From these rules are excepted the heads of Departments, Assistant Secretaries of Departments, Assistant Attorneys-General, and First Assistant Postmaster-General, Solicitor-General, Solicitor of the Treasury, Naval Solicitor, Solicitor of Internal Revenue, examiner of claims in the State Department, Treasurer of the United States, Register of the Treasury, First and Second Comptrollers of the Treasury, judges of the United States courts, district attorneys, private secretary of the President, ambassadors and other public ministers, Superintendent of the Coast Survey, Director of the Mint, governors of Territories, special commissioners, special counsel, visiting and examining boards, persons appointed to positions without compensation for services, dispatch agents, and bearers of dispatches.

Acts to Enforce the Fifteenth Amendment of the Constitution, 1870–71

On May 31, 1870, the Congress enacted a stringent law providing for the free exercise of the elective franchise by all qualified citizens, and on February 28, 1871, it passed a bill amending and further strengthening the first Act. The first six sections from the Act are given here, from the text in "United States Statutes at Large," Vol. XVI., pp. 140–146, 433–440. (See page 74.)

Act of May 31, 1870

Be it enacted, etc. . . . That all citizens of the United States who are or shall be otherwise qualified by law to vote at any election by the people in any State, Territory, district, county, city, parish, township, school district, municipality, or other territorial subdivision, shall be entitled and allowed to vote at all such elections, without distinction of race, color, or previous condition of servitude; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding.

Sec. 2. *And be it further enacted,* That if by or under the authority of the constitution or laws of any State, or the laws of any Territory, any act is or shall be required to be done as a prerequisite or qualification for voting, and by such constitution or laws persons or officers are or shall be charged with the performance of duties in furnishing to citizens an opportunity to per-

form such prerequisite, or to become qualified to vote, it shall be the duty of every such person and officer to give to all citizens of the United States the same and equal opportunity to perform such prerequisite, and to become qualified to vote without distinction of race, color, or previous condition of servitude; [penalty for refusal].

. . . . . .

SEC. 4. *And be it further enacted*, That if any person, by force, bribery, threats, intimidation, or other unlawful means, shall hinder, delay, prevent, or obstruct, or shall combine and confederate with others to hinder, . . . [&c.], any citizen from doing any act required to be done to qualify him to vote or from voting at any election as aforesaid, such person shall for every such offence forfeit and pay the sum of five hundred dollars to the person aggrieved thereby, . . . and shall also for every such offence be guilty of a misdemeanor, and shall, on conviction thereof, be fined not less than five hundred dollars, or be imprisoned not less than one month and not more than one year, or both, at the discretion of the court.

SEC. 5. *And be it further enacted*, That if any person shall prevent, hinder, control, or intimidate, or shall attempt to prevent . . . [&c.], any person from exercising or in exercising the right of suffrage, to whom the right of suffrage is secured or guaranteed by the fifteenth amendment to the Constitution of the United States, by means of bribery, threats, or threats of depriving such person of employment or occupation, or of ejecting such person from rented house, lands, or other property, or by threats of refusing to renew leases or contracts for labor, or by threats of violence to himself or family, such person so offending shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be fined not less than five hundred dollars, or be imprisoned not less

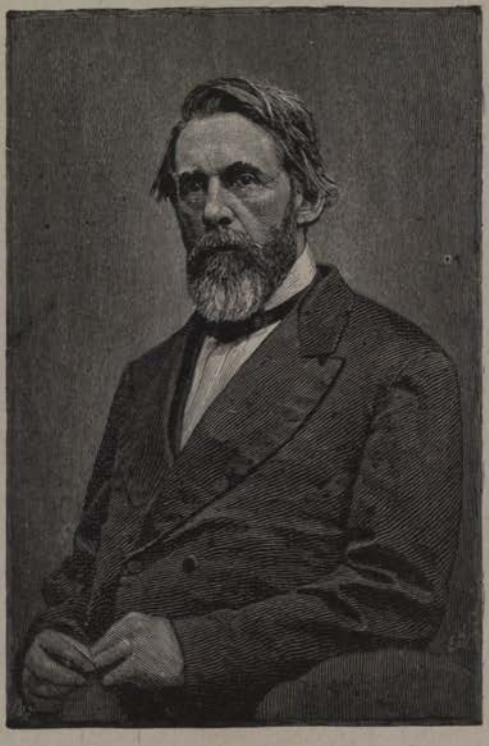
than one month and not more than one year, or both, at the discretion of the court.

SEC. 6. *And be it further enacted*, That if two or more persons shall band or conspire together, or go in disguise upon the public highway, or upon the premises of another, with intent to violate any provision of this act, or to injure, oppress, threaten, or intimidate any citizen with intent to prevent or hinder his free exercise and enjoyment of any right or privilege granted or secured to him by the Constitution or laws of the United States, or because of his having exercised the same, such persons shall be held guilty of felony, and, on conviction thereof, shall be fined or imprisoned, or both, at the discretion of the court,—the fine not to exceed five thousand dollars, and the imprisonment not to exceed ten years,—and shall, moreover, be thereafter ineligible to, and disabled from holding, any office or place of honor, profit, or trust created by the Constitution or laws of the United States.

Act to Enforce the Fourteenth Amendment to the Constitution, 1871

The actions of the Ku-Klux-Klan and other similar organizations in the South were made the subject of heated debate in the Congress. On March 21, 1871, a joint investigating committee was appointed, and two days afterward President Grant sent a message to the Congress recommending legislative action. As a result the Congress enacted what became known as the "Force bill," which was approved on April 20th. The title of the bill was "An Act to Enforce the Provisions of the Fourteenth Amendment of the Constitution of the United States, and for other Purposes." Text from the "Congressional Globe," Forty-second Congress, First Session, Part 2, 1871. Appendix, pp. 335–336. (See p. 74.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any person who under color of any law, statute, ordinance, regulation, custom, or usage of any State, shall subject, or cause to be subjected, any person within the jurisdiction of the United States to the deprivation of any privileges or immunities secured by the Constitution of the United States, shall, any such law, statute, ordinance, regulation, custom, or usage of the State to the contrary notwithstanding, be liable to the party injured in any action at law, suit in equity, or other proper proceeding for redress; such proceeding to be prose-



Geo. S. Boutwell.

GEORGE SEWALL BOUTWELL

(A member of the Committee of Fifteen that reported the Fourteenth Amendment to the Constitution in 1871. He also drafted and reported the Fifteenth Amendment. In 1850 he was chosen Governor of Massachusetts, and was re-elected in 1852. He was elected to Congress in 1862 and twice re-elected; was one of the managers of the impeachment of President Johnson, and was Secretary of the Treasury from 1869 to 1873, when he became a member of the United States Senate, where he served until 1879)

cuted in the several district or circuit courts of the United States, with and subject to the same rights of appeal, review upon error, and other remedies provided in like cases in such courts, under the provisions of the act of the ninth of April, eighteen hundred and sixty-six, entitled "An act to protect all persons in the United States in their civil rights, and to furnish the means of their vindication"; and the other remedial laws of the United States which are in their nature applicable in such cases.

SEC. 2. That if two or more persons within any State or Territory of the United States shall conspire together to overthrow, or to put down, or to destroy by force the government of the United States, or to levy war against the United States, or to oppose by force the authority of the government of the United States, or by force, intimidation, or threat to prevent, hinder, or delay the execution of any law of the United States, or by force to seize, take or possess any property of the United States, contrary to the authority thereof, or by force, intimidation, or threat to prevent any person from accepting or holding any office of trust or place of confidence under the United States, or from discharging the duties thereof, or by force, intimidation, or threat to induce any officer of the United States to leave any State, district, or place where his duties as such officer might lawfully be performed, or to injure him in his person or property on account of his lawful discharge of the duties of his office, or to injure his person while engaged in the lawful discharge of the duties of his office, or to injure his property so as to molest, interrupt, hinder, or impede him in the discharge of his official duty, or by force, intimidation, or threat to deter any party or witness in any court of the United States from attending such court, or from testifying in any matter pending in such court fully, freely, and truthfully, or to injure any such party or witness in his person or property

on account of his having so attended or testified, or by force, intimidation, or threat to influence the verdict, presentment, or indictment, of any juror or grand-juror in any court of the United States, or to injure such juror in his person or property on account of any verdict, presentment, or indictment, lawfully assented to by him, or on account of his being or having been such juror, or shall conspire together, or go in disguise upon the public highway or upon the premises of another for the purpose, either directly or indirectly, of depriving any person or any class of persons of the equal protection of the laws, or of equal privileges or immunities under the laws, or for the purpose of preventing or hindering the constituted authorities of any State from giving or securing to all persons within such State the equal protection of the laws, or shall conspire together for the purpose of in any manner impeding, hindering, obstructing, or defeating the due course of justice in any State or Territory, with intent to deny to any citizen of the United States the due and equal protection of the laws, or to injure any person in his person or his property for lawfully enforcing the right of any person or class of persons to the equal protection of the laws, or by force, intimidation, or threat to prevent any citizen of the United States lawfully entitled to vote from giving his support or advocacy in a lawful manner towards or in favor of the election of any lawfully qualified person as an elector of President or Vice-President of the United States, or as a member of the Congress of the United States, or to injure in any way any such citizen in his person or property on account of such support or advocacy, each and every person so offending shall be deemed guilty of a high crime, and, upon conviction thereof in any district or circuit court of the United States, or district or supreme court of any Territory of the United States having jurisdiction of similar offences, shall be punished by a fine not less than $500 nor more than $5,000, or

by imprisonment with or without hard labor, as the court may determine, for a period of not less than six months nor more than six years, as the court may determine, or by both such fine and imprisonment as the court shall determine. And if any one or more persons engaged in any such conspiracy shall do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby any person shall be injured in his person or property, or be deprived of having and exercising any right or privilege of a citizen of the United States, the person so injured or deprived of such rights and privileges may have and maintain an action for the recovery of damages occasioned by such injury or deprivation of rights and privileges against any one or more of the persons engaged in such conspiracy, such action to be prosecuted in the proper district or circuit court of the United States, with and subject to the same right of appeal, review upon error, and other remedies provided in like cases in such courts under the provision of the act of April ninth, one thousand eight hundred and sixty-six, "An act to protect all persons in the United States in their civil rights, and to furnish the means of their vindication."

SEC. 3. That in all cases where insurrection, domestic violence, unlawful combinations, or conspiracies in any State shall so obstruct or hinder the execution of the laws thereof, and of the United States, as to deprive any portion or class of the people of such State of any of the rights, privileges, or immunities, or protection, named in the Constitution and secured by this act, and the constituted authorities of such State shall either be unable to protect, or shall, from any cause, fail in or refuse protection of the people in such rights, such facts shall be deemed a denial by such State of the equal protection of the laws to which they are entitled under the Constitution of the United States; and in all such cases, or whenever any such insurrection, violence, unlawful com-

bination, or conspiracy shall oppose or obstruct the laws of the United States or the due execution thereof, or impede or obstruct the due course of justice under the same, it shall be lawful for the President, and it shall be his duty, to take such measures, by the employment of the militia or the land and naval forces of the United States, or of either, or by other means, as he may deem necessary for the suppression of such insurrection, domestic violence, or combinations; and any person who shall be arrested under the provision of this and the preceding section shall be delivered to the marshal of the proper district, to be dealt with according to law.

SEC. 4. That whenever in any State or part of a State the unlawful combinations named in the preceding section of this act shall be organized and armed, and so numerous and powerful as to be able, by violence, to either overthrow or set at defiance the constituted authorities of such State and of the United States within such State, or when the constituted authorities are in complicity with, or shall connive at the unlawful purposes of, such powerful and armed combinations; and whenever, by reason of either or all of the causes aforesaid, the conviction of such offenders and the preservation of the public safety shall become in such district impracticable, in every such case such combinations shall be deemed a rebellion against the government of the United States, and during the continuance of such rebellion, and within the limits of the district which shall be so under the sway thereof, such limits to be prescribed by proclamation, it shall be lawful for the President of the United States, when in his judgment the public safety shall require it, to suspend the privileges of the writ of *habeas corpus*, to the end that such rebellion may be overthrown: *Provided*, that all the provisions of the second section of an act entitled "An act relating to *habeas corpus* and regulating judicial proceedings in certain cases," approved March third, eighteen hundred

and sixty-three, which relate to the discharge of prisoners other than prisoners of war, and to the penalty for refusing to obey the order of the court, shall be in full force so far as the same are applicable to the provisions of this section: *Provided further*, that the President shall first have made proclamations, as now provided by law, commanding such insurgents to disperse. *And provided also*, that the provisions of this section shall not be in force after the end of the next regular session of Congress.

SEC. 5. That no person shall be a grand or petit juror in any court of the United States upon any inquiry, hearing, or trial of any suit, proceeding, or prosecution based upon or arising under the provisions of this act who shall, in the judgment of the court, be in complicity with any such combination or conspiracy; and every such juror shall, before entering upon any such inquiry, hearing, or trial, take and subscribe an oath in open court that he has never, directly or indirectly, counselled, advised, or voluntarily aided any such combination or conspiracy; and each and every person who shall take this oath, and shall therein swear falsely, shall be guilty of perjury, and shall be subject to the pains and penalties declared against that crime, and the first section of the act entitled "An act defining additional causes of challenge and prescribing an additional oath for grand and petit jurors in the United States courts," approved June seventeenth, eighteen hundred and sixty-two, be, and the same is hereby, repealed.

SEC. 6. That any person or persons having knowledge that any of the wrongs conspired to be done and mentioned in the second section of this act are about to be committed, and having power to prevent, or aid in preventing, the same, shall neglect or refuse so to do, and such wrongful act shall be committed, such person or persons shall be liable to the person injured, or his legal representatives, for all damages caused by any such wrongful act which such first-named person or persons,

by reasonable diligence, could have prevented; and such damages may be recovered in an action on the case in the proper circuit court of the United States, and any number of persons guilty of such wrongful neglect or refusal may be joined as defendants in such action: *Provided*, that such action shall be commenced within one year after such cause of action shall have accrued; and if the death of any person shall be caused by any such wrongful act and neglect, the legal representatives of such deceased person shall have such action therefor, and may recover not exceeding five thousand dollars damages therein, for the benefit of the widow of such deceased person, if any there be, or if there be no widow, for the benefit of the next of kin of such deceased person.

SEC. 7. That nothing herein contained shall be construed to supersede or repeal any former act or law, except so far as the same may be repugnant thereto; and any offences heretofore committed against the tenor of any former act shall be prosecuted, and any proceeding already commenced for the prosecution thereof shall be continued and completed, the same as if this act had not been passed, except so far as the provisions of this act may go to sustain and validate such proceedings.

President Grant's South Carolina Proclamation, 1871

On October 12, 1871, the President issued the subjoined proclamation, warning members of illegal organizations in nine specified counties of South Carolina to disperse and retire peaceably to their homes within five days. On the failure of the parties concerned to act according to the proclamation, the President, on October 17th, following, suspended the writ of *habeas corpus* in the designated counties. From "Messages and Papers of the Presidents, 1789–1897," edited by J. D. Richardson. Washington: Government Printing Office, 1897, Vol. VII., p. 135–136. (See page 75.)

Whereas the unlawful combinations and conspiracies have long existed and do still exist in the State of South Carolina for the purpose of depriving certain portions and classes of the people of that State of the rights, privileges, immunities, and protection named in the Constitution of the United States and secured by the act of Congress approved April 20, 1871, entitled "An act to enforce the provisions of the fourteenth amendment to the Constitution of the United States;" and

Whereas in certain parts of said State, to wit, in the counties of Spartanburg, York, Marion, Chester, Laurens, Newberry, Fairfield, Lancaster, and Chesterfield, such combinations and conspiracies do so obstruct and hinder the execution of the laws of said State and of

the United States as to deprive the people aforesaid of the rights, privileges, immunities, and protection aforesaid and do oppose and obstruct the laws of the United States and their due execution and impede and obstruct the due course of justice under the same; and

Whereas the constituted authorities of said State are unable to protect the people aforesaid in such rights within the said counties; and

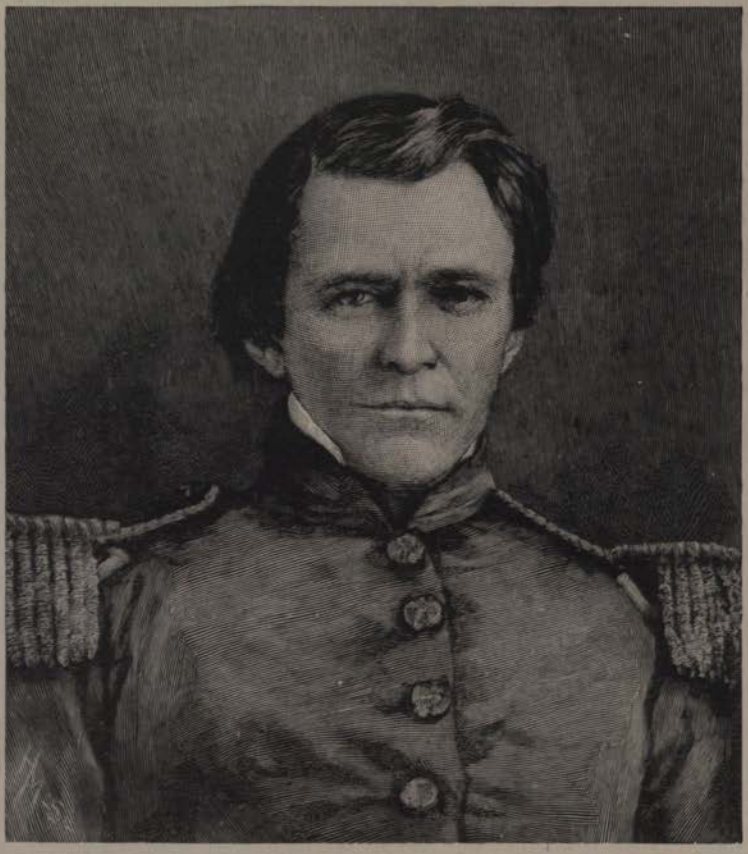
Whereas the combinations and conspiracies aforesaid, within the counties aforesaid, are organized and armed and are so numerous and powerful as to be able to defy the constituted authorities of said State and of the United States within the said State, and by reason of said causes the conviction of such offenders and the preservation of the public peace and safety have become impracticable in said counties;

Now, therefore, I, Ulysses S. Grant, President of the United States of America, do hereby command all persons composing the unlawful combinations and conspiracies aforesaid to disperse and to retire peaceably to their homes within five days of the date hereof, and to deliver either to the marshal of the United States for the district of South Carolina, or to any of his deputies, or to any military officer of the United States within said counties, all arms, ammunition, uniforms, disguises, and other means and implements used, kept, possessed, or controlled by them for carrying out the unlawful purposes for which the combinations and conspiracies are organized.

President Grant's Suspension of the Writ of Habeas Corpus, 1871

Notwithstanding the enactment of the Act to enforce the provisions of the Fourteenth Amendment of the Constitution, illegal organizations continued to commit acts prohibited thereby. The President issued two proclamations of warning, and as these did not accomplish the object desired, he followed them with a third, under date of October 17, 1871, in which he suspended the writ of *habeas corpus* in certain designated sections. The suspending proclamation is as follows. Text from "Messages and Papers of the Presidents, 1789–1897," edited by J. D. Richardson. Washington: Government Printing Office, 1897, Vol. VII., pp. 136–137. (See page 76.)

Whereas by an act of Congress entitled "An act to enforce the provisions of the fourteenth amendment to the Constitution of the United States, and for other purposes," approved the 20th day of April, A. D. 1871, power is given to the President of the United States, when in his judgment the public safety shall require it, to suspend the privileges of the writ of *habeas corpus* in any State or part of a State whenever combinations and conspiracies exist in such State or part of a State for the purpose of depriving any portion or class of the people of such State of the rights, privileges, immunities, and protection named in the Constitution of the United States and secured by the act of Congress afore-



ULYSSES SIMPSON GRANT AS LIEUTENANT IN THE MEXICAN WAR

(He served in the war with Mexico, first under General Taylor, and then under General Scott, taking part in every battle between Vera Cruz and the City of Mexico. From "Harper's Encyclopædia of United States History")

said; and whenever such combinations and conspiracies do so obstruct and hinder the execution of the laws of any such State and of the United States as to deprive the people aforesaid of the rights, privileges, immunities, and protection aforesaid, and do oppose and obstruct the laws of the United States and their due execution, and impede and obstruct the due course of justice under the same; and whenever such combinations shall be organized and armed, and so numerous and powerful as to be able by violence either to overthrow or to set at defiance the constituted authorities of said State and of the United States within such State; and whenever by reason of said causes the conviction of such offenders and the preservation of the public peace shall become in such State or part of a State impracticable; and

Whereas such unlawful combinations and conspiracies for the purposes aforesaid are declared by the act of Congress aforesaid to be rebellion against the Government of the United States; and

Whereas by said act of Congress it is provided that before the President shall suspend the privileges of the writ of *habeas corpus* he shall first have made proclamation commanding such insurgents to disperse; and

Whereas on the 12th day of the present month of October the President of the United States did issue his proclamation, reciting therein, among other things, that such combinations and conspiracies did then exist in the counties of Spartanburg, York, Marion, Chester, Laurens, Newberry, Fairfield, Lancaster, and Chesterfield, in the State of South Carolina, and commanding thereby all persons composing such unlawful combinations and conspiracies to disperse and retire peaceably to their homes within five days from the date thereof, and to deliver either to the marshal of the United States for the district of South Carolina, or to any of his deputies, or to any military officer of the United States

within said counties, all arms, ammunition, uniforms, disguises, and other means and implements used, kept, possessed, or controlled by them for carrying out the unlawful purposes for which the said combinations and conspiracies are organized; and

Whereas the insurgents engaged in such unlawful combinations and conspiracies within the counties aforesaid have not dispersed and retired peaceably to their respective homes, and have not delivered to the marshal of the United States, or to any of his deputies, or to any military officer of the United States within said counties, all arms, ammunition, uniforms, disguises, and other means and implements used, kept, possessed, or controlled by them for carrying out the unlawful purposes for which the combinations and conspiracies are organized, as commanded by said proclamation, but do still persist in the unlawful combinations and conspiracies aforesaid:

Now, therefore, I, Ulysses S. Grant, President of the United States of America, by virtue of the authority vested in me by the Constitution of the United States and the act of Congress aforesaid, do hereby declare that in my judgment the public safety especially requires that the privileges of the writ of *habeas corpus* be suspended, to the end that such rebellion may be overthrown, and do hereby suspend the privileges of the writ of *habeas corpus* within the counties of Spartanburg, York, Marion, Chester, Laurens, Newberry, Fairfield, Lancaster, and Chesterfield, in said State of South Carolina, in respect to all persons arrested by the marshal of the United States for the said district of South Carolina, or by any of his deputies, or by any military officer of the United States, or by any soldier or citizen acting under the orders of said marshal, deputy, or such military officer within any one of said counties, charged with any violation of the act of Congress aforesaid, during the continuance of such rebellion.

The Ku-Klux Klan

Presentment of the Grand Jury, Columbia, South Carolina, 1871

Southern opposition to reconstruction expressed itself largely through the activities of the Ku-Klux Klan, the White Camellias, and other organizations whose object was primarily the intimidation of the negroes and the upholding of the rights of the Southern whites. This led to violence in many States, notably South Carolina. The presentment here given was made at the Circuit Court held at Columbia, South Carolina, in 1871. The text is printed from the report of the Joint Select Committee on the Condition of Affairs in the Late Insurrectionary States, "House Reports," Forty-second Congress, Second Session, No. 22, Part 1, pp. 48–49. (See pages 59, 60; 60–63; 74, 75.)

To the Judges of the United States Circuit Court:

In closing the labors of the present term, the grand jury beg leave to submit the following presentment: During the whole session we have been engaged in investigations of the most grave and extraordinary character—investigations of the crimes committed by the organization known as the Ku-Klux Klan. The evidence elicited has been voluminous, gathered from the victims themselves and their families, as well as those who belong to the Klan and participated in its crimes. The jury has been shocked beyond measure at the developments which have been made in their presence of the number and character of the atrocities com-

THE LAW OFFICE OF JUDGE THOMAS M. JONES, PULASKI, TENNESSEE, IN WHICH THE KU-KLUX KLAN WAS FOUNDED

(From sketch by Miss Cora R. Jones. Reproduced through the courtesy of Prof. W. L. Fleming, of the University of Louisiana, editor of Lester and Wilson's "Ku Klux Klan")

mitted, producing a state of terror and a sense of utter insecurity among a large portion of the people, especially the colored population. The evidence produced before us has established the following facts:

1. That there has existed since 1868, in many counties of the State, an organization known as the "Ku-Klux Klan," or "Invisible Empire of the South," which embraces in its membership a large proportion of the white population of every profession and class.

2. That this Klan, bound together by an oath, administered to its members at the time of their initiation into the order, of which the following is a copy:

Obligation

I (name), before the immaculate Judge of Heaven and Earth, and upon the Holy Evangelists of Almighty God, do, of my own free will and accord, subscribe to the following sacredly binding obligations:

"1. We are on the side of justice, humanity, and constitutional liberty, as bequeathed to us in its purity by our forefathers.

"2. We oppose and reject the principles of the radical party.

"3. We pledge mutual aid to each other in sickness, distress, and pecuniary embarrassment.

"4. Female friends, widows, and their households, shall ever be special objects of our regard and protection.

"Any member divulging, or causing to be divulged, any of the foregoing obligations, shall meet the fearful penalty and traitor's doom, which is Death! Death! Death!"

That in addition to this oath the Klan has a constitution and by-laws, which provides, among other things, that each member shall furnish himself with a pistol, a Ku-Klux gown, and a signal instrument. That the operations of the Klan were executed in the night, and

were invariably directed against members of the republican party by warnings to leave the country, by whippings, and by murder.

3. That in large portions of the counties of York, Union, and Spartanburgh, to which our attention has

CARPETBAGGERS LISTENING TO A KU-KLUX REPORT

(From a cartoon in "The Loil Legislature," a pamphlet by Capt. B. H. Screws, of Montgomery, here reproduced through the courtesy of Prof. W. L. Fleming, of the University of Louisiana, editor of Lester and Wilson's "Ku Klux Klan." The Alabama Reconstruction Legislature was the first to make an investigation of Ku-Klux-Klan, and Sibley and Coon, shown in the cartoon, were two carpet-baggers active in the investigation)

been more particularly called in our investigations during part of the time for the last eighteen months, the civil law has been set at defiance, and ceased to afford any protection to the citizens.

4. That the Klan, in carrying out the purposes for which it was organized and armed, inflicted summary

vengeance on the colored citizens of these counties, by breaking into their houses at the dead of night, dragging them from their beds, torturing them in the most inhuman manner, and in many instances murdering them; and this, mainly, on account of their political affiliations. Occasionally additional reasons operated, but in no instance was the political feature wanting.

5. That for this condition of things, for all these violations of law and order, and the sacred rights of citizens, many of the leading men of those counties were responsible. It was proven that large numbers of the most prominent citizens were members of the order. Many of this class attended meetings of the Grand Klan. At a meeting of the Grand Klan, held in Spartanburgh County, at which there were representatives from the various dens of Spartanburgh, York, Union, and Chester Counties, in this State, besides a number from North Carolina, a resolution was adopted that no raids should be undertaken, or any one whipped or injured by members of the Klan, without orders from the Grand Klan. The penalty for violating this resolution was one hundred lashes on the bare back for the first offense, and for the second, death. This testimony establishes the nature of the discipline enforced in the order, and also the fact that many of the men who were openly and publicly speaking against the Klan, and pretending to deplore the work of this murderous conspiracy, were influential members of the order, and directing its operations even in detail.

The jury has been appalled as much at the number of outrages as at their character, it appearing that eleven murders and over six hundred whippings have been committed in York County alone. Our investigation in regard to the other counties named has been less full; but it is believed, from the testimony, that an equal or greater number has been committed in Union, and that

the number is not greatly less in Spartanburgh and Laurens.

We are of the opinion that the most vigorous prosecution of the parties implicated in these crimes is impera-

COSTUMES OF KU-KLUX KLAN WORN IN MISSISSIPPI AND WEST ALABAMA

(From Lester and Wilson's "Ku Klux Klan" through the courtesy of Prof. W. L. Fleming, of the University of Louisiana)

tively demanded; that without this there is great danger that these outrages will be continued, and that there will be no security to our fellow-citizens of African descent.

We would say further, that unless the strong arm of

the Government is interposed to punish these crimes committed upon this class of citizens, there is every reason to believe that an organized and determined attempt at retaliation will be made, which can only result in a state of anarchy and bloodshed too horrible to contemplate.

We have visited the United States prisoners confined in the county jail, and find them all in a healthy condition, being provided with seemingly ample provisions of good, wholesome quality; but the quarters in which they are confined, owing to their being greatly crowded, have not been kept as clean as is desirable.

Should it be necessary for these prisoners to be kept here any length of time, we would respectfully recommend that at least one-half of those in the jail be removed to the prison on Sumter street. The prisoners complain of having to pay a servant for bringing up their wood to them after it has been delivered in the jail-yard.

Some of them are in want of clothing, not having a change with them, and what they have is insufficient to keep them comfortable at this season of the year. Some are also in want of shoes. There is some complaint of the food being at times indifferently cooked; they should have some change of diet at least three times per week.

The prisoners confined on Sumter street, in what is known as the Neagle House, we find in good, clean, comfortable quarters, well provided with blankets, &c. The food seemed to be good and wholesome, and we are of the opinion that the officers in charge have discharged their duties as well as they could possibly have done.

All of which is respectfully submitted.

BENJ. F. JACKSON, *Foreman.*

Constitution of a Local Lodge of the Ku-Klux Klan, 1871

From the report of the Joint Select Committee on the Condition of Affairs in the Late Insurrectionary States, "House Reports," Forty-second Congress, Second Session, No. 22, Part 2, pp. 414–415. (See pages 59, 60; 60–63; 74, 75.)

Article I. This organization shall be known as the —— Order, No. ——, of the Ku-Klux Klan of the State of South Carolina.

Article II. The officers shall consist of a cyclops and scribe, both of whom shall be elected by a majority vote of the order, and to hold their office during good behavior.

Article III., Section 1. It shall be the duty of the C. to preside in the order, enforce a due observance of the constitution and by-laws, and an exact compliance to the rules and usages of the order; to see that all the members perform their respective duties; appoint all committees before the order; inspect the arms and dress of each member on special occasions; to call meetings when necessary; draw upon members for all sums needed to carry on the order.

Sec. 2. The S. shall keep a record of the proceedings of the order; write communications; notify other Klans when their assistance is needed; give notice when any member has to suffer the penalty for violating his oath; see that all books, papers or other property belonging to his office, are placed beyond the reach of any one but members of the order. He shall perform such other duties as may be required of him by the C.

Article IV., Section 1. No person shall be initiated into this order under eighteen years of age.

Sec. 2. No person of color shall be admitted into this order.

Sec. 3. No person shall be admitted into the order who does not sustain a good moral character, and who is any way incapacitated to perform the duties of a Ku-Klux.

Sec. 4. The name of a person offered for membership must be proposed by the committee appointed by the chief, verbally, stating age, residence, and occupation; state if he was a soldier in the late war, his rank, whether in the Federal or confederate service, and his command.

Article V., Section 1. Any member who shall offend against these articles, or the by-laws, shall be subject to be fined and reprimanded by the C., as two-thirds of the members present at any regular meeting may determine.

Sec. 2. Every member shall be entitled to a fair trial for any offense involving reprimand or criminal punishment.

By-laws

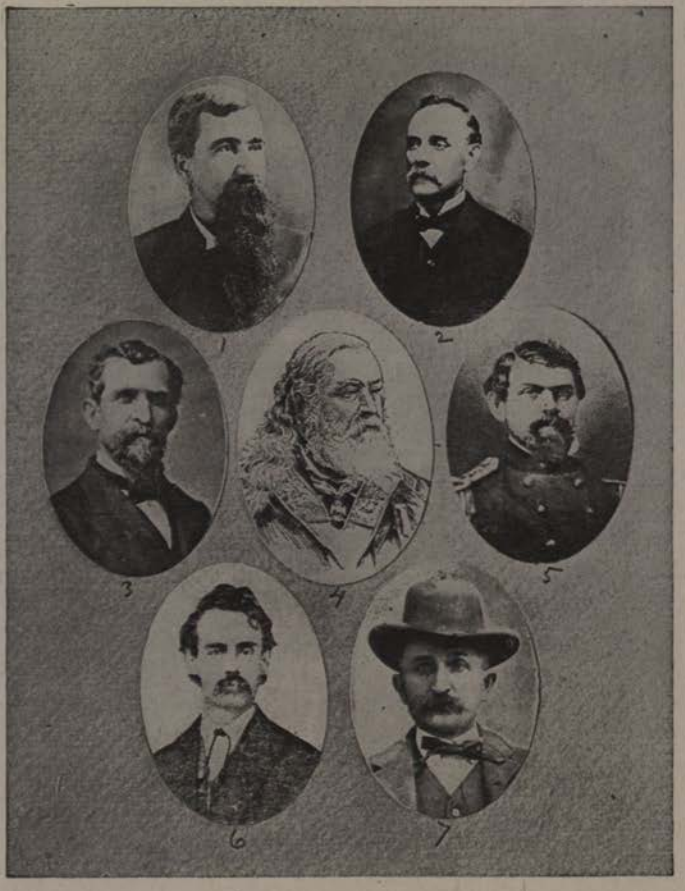
Article I, Section 1. This order shall meet at ——.

Sec. 2. Five members shall constitute a quorum, provided the C. or S. be present.

Sec. 3. The C. shall have power to appoint such members of the order to attend to the sick, the needy, and those distressed, and those suffering from radical misrule, as the case may require.

Sec. 4. No person shall be appointed on a committee unless the person is present at the time of appointment. Members of committees neglecting to report shall be fined 30 cents.

Article II, Section 1. Every member, on being admitted, shall sign the constitution and by-laws and pay the initiation fee.



SOME CLANSMEN

(From Lester and Wilson's "Ku Klux Klan," through the courtesy of the editor, Prof. W. L. Fleming, of the University of Louisiana. 1. D. L. Wilson, one of the authors of "Ku Klux Klan;" 2. Major J. R. Crowe, one of the founders; 3. Capt. John C. Lester, one of the founders; 4. Gen. Albert Pike, chief judicial officer; 5. Gen. W. J. Hardee; 6. Calvin Jones, one of the founders; 7. Ryland Randolph)

Sec. 2. A brother of the Klan wishing to become a member of this order, shall present his application with the proper papers of transfer from the order of which he was a member formerly, shall be admitted to the order only by a unanimous vote of the members present.

Article III, Section 1. The initiation fee shall be ——.

Article IV, Section 1. Every member who shall refuse or neglect to pay his fine or dues shall be dealt with as the chief thinks proper.

Sec. 2. Sickness or absence from the country or being engaged in any important business shall be a valid excuse for any neglect of duty.

Article V, Section 1. Each member shall provide himself with a pistol, Ku-Klux gown, and signal instruments.

Sec. 2. When charges have been preferred against a member in proper manner, or any matters of grievance between brother Klux are brought before the order, they shall be referred to a special committee of three or more members, who shall examine the parties and determine the matters in question, reporting their decision to the order. If the parties interested desire, two-thirds of the members present voting in favor of the report, it shall be carried.

Article VI, Section 1. It is the duty of every member who has evidence that another has violated Article II to prefer the charges and specify the offense to the order.

Sec. 2. The charge for violating Article II shall be referred to a committee of five or more members, who shall, as soon as practicable, summon the parties and investigate the matter.

Sec. 3. If the committee agree that the charges are sustained, that the member on trial has intentionally violated his oath, Article II, they shall report the fact to the order.

Sec. 4. If the committee agree that the charges are

A Prospective Scene in the "City of Oaks," 4th of March, 1869.
K.K.K.
OHIO
"Hang, cure, hang! * * * * * Their complexion is perfect gallows. Stand fast, good fate, to their hanging! * * * * * If they be not born to be hanged, our case is miserable."

The above cut represents the fate in store for those great pests of Southern society—the carpet-bagger and scallawag—if found in Dixie's Land after the break of day on the 4th of March next.

The genus carpet-bagger is a man with a lank head of dry hair, a lank stomach and long legs, club knees and splay feet, dried legs and lank jaws, with eyes like a fish and mouth like a shark. Add to this a habit of sneaking and dodging about in unknown places—habiting with negroes in dark dens and back streets—a look like a hound and the smell of a polecat.

Words are wanting to do full justice to the genus scallawag. He is a cur with a contracted head, downward look, slinking and uneasy gait; sleeps in the woods, like old Crossland, at the bare idea of a Ku-Klux raid.

Our scallawag is the local leper of the community. Unlike the carpet bagger, he is native, which is so much the worse. Once he was respected in his circle; his head was level, and he would look his neighbor in the face. Now, possessed of the itch of office and the salt rheum of Radicalism, he is a mangy dog, slinking through the alleys, haunting the Governor's office, defiling with tobacco juice the steps of the Capitol, stretching his lazy carcass in the sun on the Square, or the benches of the Mayor's Court.

He waiteth for the troubling of the political waters, to the end that he may step in and be healed of the itch by the ointment of office. For office he 'bums' as a toper 'bums' for the satisfying dram. For office, yet in prospective, he hath bartered respectability; hath abandoned business, and ceased to labor with his hands, but employs his feet kicking out boot-heels against lamp post and corner curb, while discussing the question of office.

THE FATE OF THE CARPET-BAGGER AND THE SCALAWAG

(Cartoon by Ryland Randolph in the *Independent Monitor*, of Tuscaloosa, Alabama, September 1, 1868; reproduced from Lester and Wilson's "Ku Klux Klan" through the courtesy of the editor, Prof. W. L. Fleming, of the University of Louisiana)

not sustained, that the member is not guilty of violating his oath or Article II, they shall report to that effect to the order and the charges shall be dismissed.

Sec. 5. When the committee report that the charges are sustained, and the unanimous vote of the members is given thereof, the offending person shall be sentenced to death by the chief.

Sec. 6. The person, through the cyclops of the order of which he is a member, can make application for pardon to the Great Grand Cyclops of Nashville, Tennessee, in which case execution of the sentence can be stayed until pardoning power is heard from.

Article VII, Section 1. Any member who shall betray or divulge any of the matters of the order shall suffer death.

Article VIII, Section 1. The following shall be the rules of any order to any matter herein not provided for; shall be managed in strict accordance with the Ku-Klux rules.

Sec. 2. When the chief takes his position on the right, the scribe, with the members forming a half-circle around them, and at the sound of the signal instrument there shall be profound silence.

Sec. 3. Before proceeding to business, the scribe shall call the roll and note the absentees.

Sec. 4. Business shall be taken up in the following order:

1. Reading the minutes.
2. Excuse of members at preceding meeting.
3. Report of committee of candidates for membership.
4. Collection of dues.
5. Are any of the order sick or suffering?
6. Report of committees.
7. New business.

Treaty of Washington, 1871

By this treaty, signed in Washington May 8, 1871, and proclaimed July 4th, the American claims for depredations by the *Alabama* and other Confederate cruisers were referred to a tribunal of arbitration which rendered a decision in favor of the United States on September 14, 1872. The text of the first eleven articles of the treaty, referring to the *Alabama* claims, is given here. The text is from pp. 479–483 of "Treaties and Conventions Concluded Between the United States and Other Powers Since July 4, 1776," issued by the State Department in 1889. (See page 70.)

ARTICLE I

Whereas differences have arisen between the Government of the United States and the Government of Her Britannic Majesty, and still exist, growing out of the acts committed by the several vessels which have given rise to the claims generically known as the "Alabama Claims":

And whereas Her Britannic Majesty has authorized her High Commissioners and Plenipotentiaries to express, in a friendly spirit, the regret felt by her Majesty's Government for the escape, under whatever circumstances, of the Alabama and other vessels from British ports, and for the depredations committed by those vessels:

Now, in order to remove and adjust all complaints and claims on the part of the United States, and to provide for the speedy settlement of such claims which are not admitted by Her Britannic Majesty's Government, the high contracting parties agree that all the said claims, growing out of acts committed by the aforesaid vessels, and generically known as the "Alabama Claims," shall be referred to a tribunal of arbitration to be composed of five Arbitrators, to be appointed in the following manner, that is to say: One shall be named by the President of the United States; one shall be named by Her Britannic Majesty; His Majesty the King of Italy shall be requested to name one; the President of the Swiss Confederation shall be requested to name one; and His Majesty the Emperor of Brazil shall be requested to name one.

In case of the death, absence, or incapacity to serve of any or either of the said Arbitrators, or, in the event of either of the said Arbitrators omitting or declining or ceasing to act as such, the President of the United States, or Her Britannic Majesty, or His Majesty the King of Italy, or the President of the Swiss Confederation, or His Majesty the Emperor of Brazil, as the case may be, may forthwith name another person to act as Arbitrator originally named by such head of a State.

And in the event of the refusal or omission for two months after receipt of the request from either of the high contracting parties of His Majesty the King of Italy, or the President of the Swiss Confederation, or His Majesty the Emperor of Brazil, to name an Arbitrator either to fill the original appointment or in the place of one who may have died, be absent, or incapacitated, or who may omit, decline, or from any cause cease to act as such Arbitrator, His Majesty the King of Sweden and Norway shall be requested to name one or more persons, as the case may be, to act as such Arbitrator or Arbitrators.

BARON D'ITAJUBA
(Nominated as arbitrator by the Emperor of Brazil)

COUNT FREDERICK SCLOPIS
(Italian arbitrator, president of the Tribunal)

ARTICLE II

The Arbitrators shall meet at Geneva, in Switzerland, at the earliest convenient day after they shall have been named, and shall proceed impartially and carefully to examine and decide all questions that shall be laid before them on the part of Governments of the United States and Her Britannic Majesty respectively. All questions considered by the tribunal, including the final award, shall be decided by a majority of all the Arbitrators.

Each of the high contracting parties shall also name one person to attend the tribunal as its Agent to represent it generally in all matters connected with the arbitration.

ARTICLE III

The written or printed case of each of the two parties, accompanied by the documents, the official correspondence, and other evidence on which each relies, shall be delivered in duplicate to each of the Arbitrators and to the Agent of the other party as soon as may be after the organization of the tribunal, but within a period not exceeding six months from the date of the exchange of the ratifications of this treaty.

ARTICLE IV

Within four months after the delivery on both sides of the written or printed case, either party may, in like manner, deliver in duplicate to each of the said Arbitrators, and to the Agent of the other party, a counter case and additional documents, correspondence, and evidence, in reply to the case, documents, correspondence, and evidence so presented by the other party.

The Arbitrators may, however, extend the time for

JACOB STAEMPFLI
(Arbitrator appointed by Switzerland)

SIR ALEXANDER COCKBURN
(Arbitrator appointed by Great Britain)

delivering such counter case, documents, correspondence, and evidence, when, in their judgment, it becomes necessary in consequence of the distance of the place from which the evidence to be presented is to be procured.

If in the case submitted to the Arbitrators either party shall have specified or alluded to any report or document in its own exclusive possession without annexing a copy, such party shall be bound, if the other party thinks proper to apply for it, to furnish that party with a copy thereof; and either party may call upon the other, through the Arbitrators, to produce the originals or certified copies of any papers adduced as evidence, giving in each instance such reasonable notice as the Arbitrators may require.

ARTICLE V

It shall be the duty of the Agent of each party, within two months after the expiration of the time limited for the delivery of the counter case on both sides, to deliver in duplicate to each of the said Arbitrators and to the Agent of the other party a written or printed argument showing the points and referring to the evidence upon which his Government relies; and the Arbitrators may, if they desire further elucidation with regard to any point, require a written or printed statement or argument, or oral argument by counsel, upon it; but in such case the other party shall be entitled to reply either orally or in writing, as the case may be.

ARTICLE VI

In deciding the matters submitted to the Arbitrators, they shall be governed by the following three rules, which are agreed upon by the high contracting parties as rules to be taken as applicable to the case, and by such principles of international law not inconsistent

SALLE DES CONFERENCES, HOTEL DE VILLE, WHERE THE GENEVA TRIBUNAL WAS HELD
(From a sketch published in *Harper's Weekly*, May 18, 1872)

therewith as the Arbitrators shall determine to have been applicable to the case.

RULES

A neutral Government is bound—

First, to use due diligence to prevent the fitting out, arming, or equipping, within its jurisdiction, of any vessel which it has reasonable ground to believe is intended to cruise or to carry on war against a Power with which it is at peace; and also to use like diligence to prevent the departure from its jurisdiction of any vessel intended to cruise or carry on war as above, such vessel having been specially adapted, in whole or in part, within such jurisdiction, to warlike use.

Secondly, not to permit or suffer either belligerent to make use of its ports or waters as the base of naval operations against the other or for the purpose of the renewal or augmentation of military supplies or arms, or the recruitment of men.

Thirdly, to exercise due diligence in its own ports and waters, and as to all persons within its jurisdiction, to prevent any violation of the foregoing obligations and duties.

Her Britannic Majesty has commanded her High Commissioners and Plenipotentiaries to declare that Her Majesty's Government cannot assent to the foregoing rules as a statement of principles of international law which were in force at the time when the claims mentioned in Article I arose, but that Her Majesty's Government, in order to evince its desire of strengthening the friendly relations between the two countries and of making satisfactory provision for the future, agrees that in deciding the questions between the two countries arising out of those claims, the Arbitrators should assume that Her Majesty's Government had undertaken to act upon the principles set forth in these rules.

Act of March, 3d 1863
15.500.000
15.500.000
It is hereby certified that
Fifteen million five hundred thousand dollars
No. 1.
Have been deposited with the Treasurer of the United States
No. 1.
Payable in
GOLD
At his Office.
To Drexel, Morgan & Co. Morton, Bliss & Co. Jay Cooke & Co. or their order.
Washington, September, 9th 1873.
John Allison
Register of the Treasury.
Approved William A. Richardson.
Secretary of the Treasury.
Treasurer of the United States

FACSIMILE OF COIN CERTIFICATE WITH WHICH THE GENEVA AWARD WAS PAID

And the high contracting parties agree to observe these rules as between themselves in future, and to bring them to the knowledge of other maritime Powers, and to invite them to accede to them.

ARTICLE VII

The decision of the tribunal shall, if possible, be made within three months from the close of the argument on both sides.

It shall be made in writing and dated, and shall be signed by the Arbitrators who may assent to it.

The said tribunal shall first determine as to each vessel separately whether Great Britain has, by any act or omission, failed to fulfil any of the duties set forth in the foregoing three rules, or recognized by the principles of international law not inconsistent with such rules, and shall certify such fact as to each of the said vessels. In case the tribunal find that Great Britain has failed to fulfil any duty or duties as aforesaid, it may, if it think proper, proceed to award a sum in gross to be paid by Great Britain to the United States, for all the claims referred to it: and in such case the gross sum so awarded shall be paid in coin by the Government of Great Britain to the Government of the United States, at Washington, within twelve months after the date of the awa d.

The award shall be in duplicate, one copy whereof shall be delivered to the Agent of the United States for his Government, and the other copy shall be delivered to the Agent of Great Britain for his Government.

ARTICLE VIII

Each Government shall pay its own Agent and provide for the proper remuneration of the counsel employed by it and of the Arbitrator appointed by it, and

WATCHING THE BATTLE BETWEEN THE "KEARSARGE" AND "ALABAMA"

(From a photograph of a painting by Alfred Cornelius Howland, N.A., published in *Harper's Magazine*, November, 1910. On the 10th of June, 1864, just outside of Cherbourg, the United States cruiser *Kearsarge* met and sank the Confederate cruiser *Alabama*)

for the expense of preparing and submitting its case to the tribunal. All other expenses connected with the arbitration shall be defrayed by the two Governments in equal moieties.

ARTICLE IX

The Arbitrators shall keep an accurate record of their proceedings, and may appoint and employ the necessary officers to assist them.

ARTICLE X

In case the tribunal finds that Great Britain has failed to fulfil any duty or duties as aforesaid, and does not award a sum in gross, the high contracting parties agree that a board of assessors shall be appointed to ascertain and determine what claims are valid, and what amount or amounts shall be paid by Great Britain to the United States on account of the liability arising from such failure, as to each vessel, according to the extent of such liability as decided by the Arbitrators.

The board of assessors shall be constituted as follows: One member thereof shall be named by the President of the United States, one member thereof shall be named by Her Britannic Majesty, and one member thereof shall be named by the Representative at Washington of His Majesty the King of Italy; and in case of a vacancy happening from any cause, it shall be filled in the same manner in which the original appointment was made.

As soon as possible after such nominations the board of assessors shall be organized in Washington, with power to hold their sittings there, or in New York, or in Boston. The members thereof shall severally subscribe a solemn declaration that they will impartially and carefully examine and decide, to the best of their judgment

and according to justice and equity, all matters submitted to them, and shall forthwith proceed, under such rules and regulations as they may prescribe, to the investigation of the claims which shall be presented to them by the Government of the United States, and shall examine and decide upon them in such order and manner as they may think proper, but upon such evidence or information only as shall be furnished by or on behalf, of the Governments of the United States and of Great Britain, respectively. They shall be bound to hear on each separate claim, if required, one person on behalf of each Government, as counsel or agent. A majority of the Assessors in each case shall be sufficient for a decision.

"LET US CLASP HANDS OVER (WHAT MIGHT HAVE BEEN) A BLOODY CHASM"

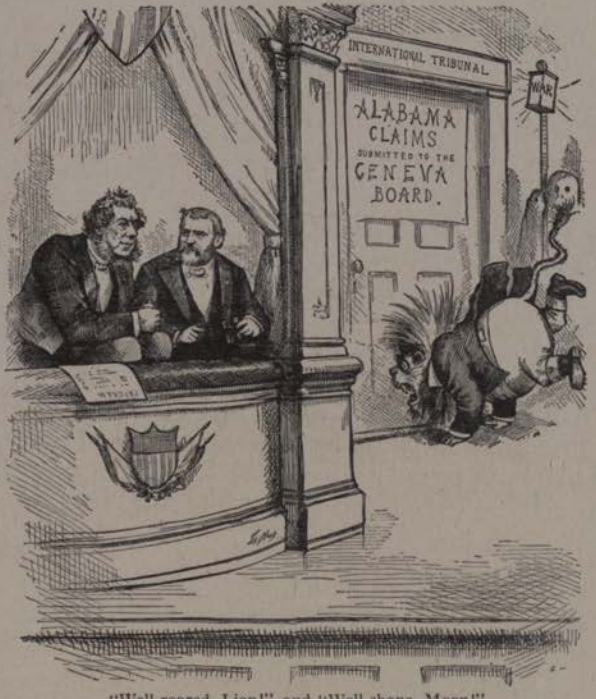
(From a cartoon by Thomas Nast, published at the time in *Harper's Weekly*)

The decision of the Assessors shall be given upon each claim in writing, and shall be signed by them respectively and dated.

Every claim shall be presented to the Assessors within six months from the day of their first meeting, but they may, for good cause shown, extend the time for the presentation of any claim to a further period not exceeding three months.

The Assessors shall report to each Government, at or

before the expiration of one year from the date of their first meeting, the amount of claims decided by them up to the date of such report; if further report at or before the expiration of two years from the date of such first meeting; and in case any claims remain undetermined



"Well roared, Lion!" and "Well shone, Moon!"

SECRETARY FISH AND GENERAL GRANT AMUSED AT THE ENGLISH OUTCRY OVER THE ALABAMA CLAIMS

(From a cartoon by Thomas Nast, published at the time in *Harper's Weekly*)

at that time, they shall make a final report within a further period of six months.

The report or reports shall be made in duplicate, and one copy thereof shall be delivered to the Secretary of State of the United States, and one copy thereof to the Representative of Her Britannic Majesty at Washington.

All sums of money which may be awarded under this article shall be payable at Washington, in coin, within twelve months after the delivery of each report.

The board of Assessors may employ such clerks as they shall think necessary.

The expenses of the board of Assessors shall be borne equally by the two Governments, and paid from time to time, as may be found expedient, on the production of accounts certified by the board. The remuneration of the Assessors shall also be paid by the two Governments in equal moieties in a similar manner.

ARTICLE XI

The high contracting parties engage to consider the result of the proceedings of the tribunals of arbitration and of the board of Assessors should such board be appointed, as a full, perfect, final settlement of all the claims hereinbefore referred to, and further engage that every such claim, whether the same may or may not have been presented to the notice of, made, preferred, or laid before the tribunal or board, shall, from and after the conclusion of the proceedings of the tribunal or board, be considered and treated as finally settled, barred, and thenceforth inadmissible.

Liberal Republican Platform, 1872

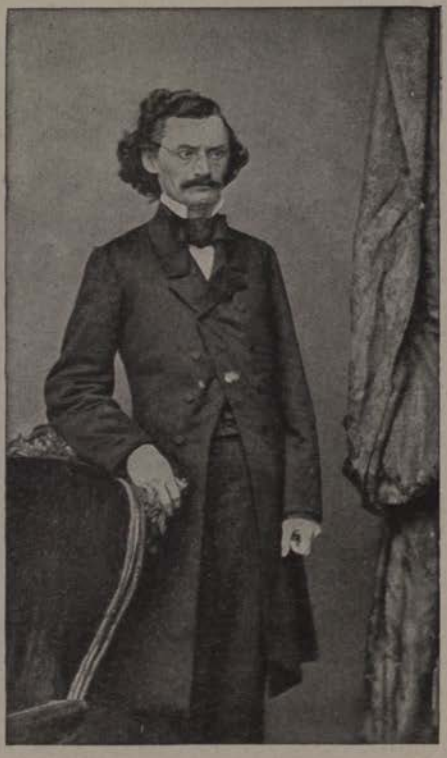
A national convention of the newly formed Liberal Republican party was held in Cincinnati, Ohio, on May 1, 1872, with United States Senator Carl Schurz, of Missouri, as permanent chairman. The convention nominated Horace Greeley, of New York, for President on the sixth ballot. His principal competitor for the honor was Charles Francis Adams, of Massachusetts, who received eight votes less than Mr. Greeley. The following resolutions were adopted as the party platform. Text from "Proceedings of the Liberal Republican Convention, in Cincinnati, May 1–3, 1872." New York: Baker & Godwin, 1872, pp. 19–21. (See page 84.)

We, the Liberal Republicans of the United States, in National Convention assembled at Cincinnati, proclaim the following principles as essential to just government:

1. We recognize the equality of all men before the law, and hold that it is the duty of Government, in its dealings with the people, to mete out equal and exact justice to all, of whatever nativity, race, color, or persuasion, religious or political.

2. We pledge ourselves to maintain the union of these States, emancipation and enfranchisement, and to oppose any reopening of the questions settled by the thirteenth, fourteenth, and fifteenth amendments to the Constitution.

3. We demand the immediate and absolute removal of



CARL SCHURZ IN 1862

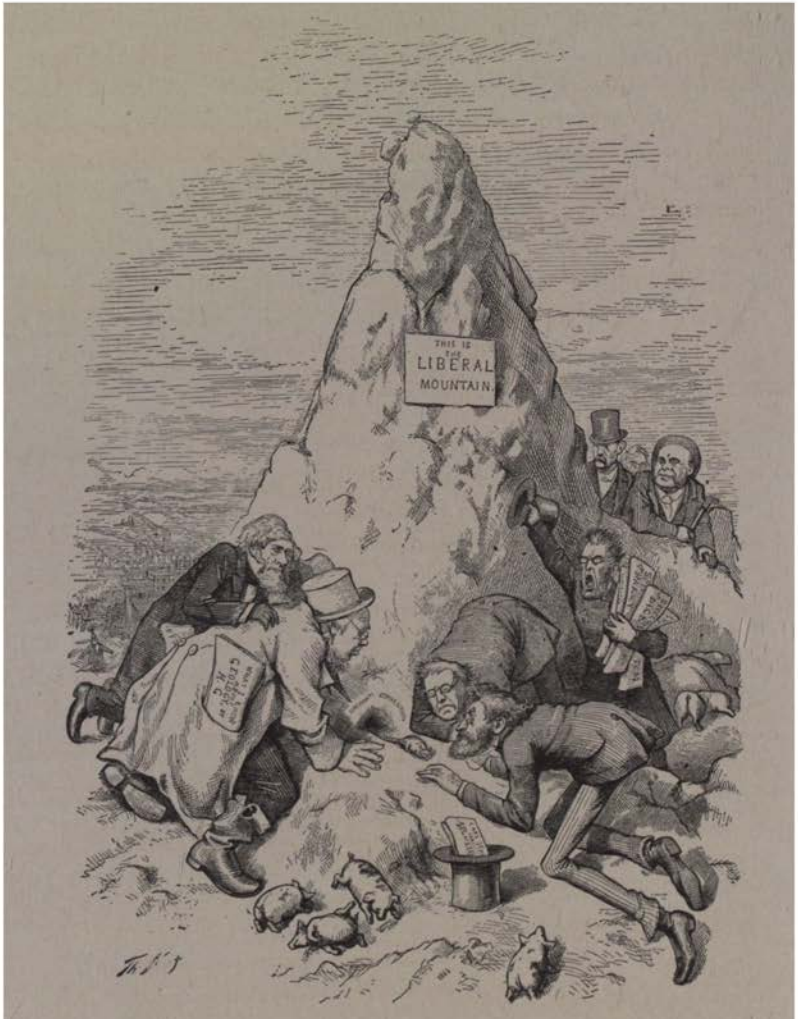
(From the original Brady negative now in possession of Frederick H. Meserve, New York City. At this time he was a frequent visitor to the White House. He emigrated to the United States in 1852, where from the very first he took a prominent part in political campaigns. He was a delegate to the National Republican Convention in 1860, and during the campaign for Lincoln he made a great many speeches both in English and German. He served in the Civil War as brigadier-general in 1862, and in 1863 he was commissioned major-general. In 1865–66 he was Washington correspondent of the New York *Tribune*)

all disabilities imposed on account of the rebellion, which was finally subdued seven years ago, believing that universal amnesty will result in complete pacification in all sections of the country.

4. Local self-government, with impartial suffrage, will guard the rights of all citizens more securely than any centralized power. The public welfare requires the supremacy of the civil over the military authority, and freedom of person under the protection of the *habeas corpus*. We demand for the individual the largest liberty consistent with public order, for the State self-government, and for the nation a return to the methods of peace and the constitutional limitations of power.

5. The civil service of the Government has become a mere instrument of partisan tyranny and personal ambition, and an object of selfish greed. It is a scandal and reproach upon free institutions, and breeds a demoralization dangerous to the perpetuity of republican government. We therefore regard such thorough reforms of the civil service as one of the most pressing necessities of the hour; that honesty, capacity, and fidelity, constitute the only valid claims to public employment; that the offices of the Government cease to be a matter of arbitrary favoritism and patronage, and that public station become again a post of honor. To this end it is imperatively required that no President shall be a candidate for re-election.

6. We demand a system of Federal taxation which shall not unnecessarily interfere with the industry of the people, and which shall provide the means necessary to pay the expenses of the Government, economically administered, the pensions, the interest on the public debt, and a moderate reduction annually of the principal thereof; and, recognizing that there are in our midst honest but irreconcilable differences of opinion with regard to the respective systems of protection and free trade, we remit the discussion of the subject to the



CARTOON BY THOMAS NAST CHARACTERIZING THE RESULT OF THE CINCINNATI CONVENTION IN "HARPER'S WEEKLY," MAY 18, 1872, ENTITLED "GREAT EXPECTATIONS"

("A [mud] mountain was once greatly agitated. Loud groans and noises were heard, and crowds of people came from all parts to see what was the matter. After long expectation and many wise conjectures from the by standers out popped a—MOUSE")

people in their Congressional districts, and to the decision of Congress thereon, wholly free of Executive interference or dictation.

7. The public credit must be sacredly maintained, and we denounce repudiation in every form and guise.

8. A speedy return to specie payment is demanded alike by the highest considerations of commercial morality and honest government.

9. We remember with gratitude the heroism and sacrifices of the soldiers and sailors of the republic, and no act of ours shall ever detract from their justly-earned fame, or the full reward of their patriotism.

10. We are opposed to all further grants of lands to railroads or other corporations. The public domain should be held sacred to actual settlers.

11. We hold that it is the duty of the Government, in its intercourse with foreign nations, to cultivate the friendship of peace, by treating with all on fair and equal terms, regarding it alike dishonorable either to demand what is not right, or to submit to what is wrong.

12. For the promotion and success of these vital principles, and the support of the candidates nominated by this convention we invite and cordially welcome the cooperation of all patriotic citizens, without regard to previous affiliations.

Greeley's Presidential Candidacy, 1872

The newly formed Liberal Republican party at its first national convention, in Cincinnati, on May 1, 1872, gave Horace Greeley its nomination for the Presidency, and on July 9th the National Democratic Convention, in Baltimore, honored him similarly. The following extracts from his two letters of acceptance throw light on the political situation of the day and set forth the candidate's views on engrossing political problems. Text of first letter of acceptance from "Proceedings of the Liberal Republican Convention, in Cincinnati, May 1–3, 1872." New York: Baker & Godwin, 1872, pp. 38–40. Text of second letter of acceptance from "Official Proceedings of the National Democratic Convention," held at Baltimore, July 9, 1872. Boston: Rockwell & Churchill, 1872, pp. 79–81. (See page 84.)

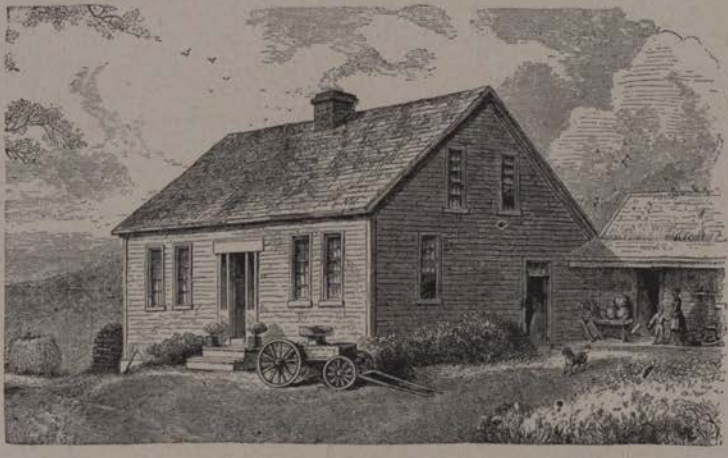
Substance of the Cincinnati Platform

1. All the political rights and franchises which have been acquired through our late bloody convulsion must and shall be guaranteed, maintained, enjoyed, respected evermore.

2. All the political rights and franchises which have been lost through that convulsion should and must be promptly restored and re-established, so that there shall be henceforth no proscribed class and no disfranchised caste within the limits of our Union, whose long-estranged

people shall unite and fraternize upon the broad basis of universal amnesty with impartial suffrage.

3. That, subject to our solemn constitutional obligation to maintain the equal rights of all citizens, our policy should aim at local self-government and not at



BIRTHPLACE OF HORACE GREELEY, AMHERST, NEW HAMPSHIRE
(From *Harper's Weekly*, September 16, 1871)

centralization; that the civil authority should be supreme over the military; that the writ of *habeas corpus* should be jealously upheld as the safeguard of personal freedom; that the individual citizen should enjoy the largest liberty consistent with public order, and that there shall be no federal subversion of the internal polity of the several States and municipalities, but that each shall be left free to enforce the rights and promote the well-being of its inhabitants by such means as the judgment of its own people shall prescribe.

4. There shall be a real and not merely a simulated reform in the civil service of the republic; to which end it is indispensable that the chief dispenser of its vast official patronage shall be shielded from the main tempta-

tion to use his power selfishly, by a rule inexorably forbidding and precluding his re-election.

5. That the raising of revenues, whether by tariff or otherwise, shall be recognized and treated as the people's immediate business, to be shaped and directed by them through their representatives in Congress, whose action thereon the President must neither overrule by his veto, attempt to dictate, nor presume to punish, by bestowing office only on those who agree with him or withdrawing it from those who do not.

6. That the public lands must be sacredly reserved for occupation and acquisition by cultivators, and not recklessly squandered on the projectors of railroads, for which our people have no present need, and the premature construction of which is annually plunging us into deeper and deeper abysses of foreign indebtedness.

7. That the achievement of these grand purposes of universal beneficence is expected and sought at the hands of all who approve them, irrespective of past affiliations.

8. That the public faith must at all hazards be maintained and the national credit preserved.

9. That the patriotic devotedness and inestimable services of our fellow-citizens, who, as soldiers or sailors, upheld the flag and maintained the unity of the republic, shall ever be gratefully remembered and honorably requited.

Acceptance of the Baltimore Nomination

Gentlemen,—Upon mature deliberation, it seems fit that I should give to your letter of the 10th inst. some further and fuller response than the hasty, unpremeditated words in which I acknowledged and accepted your nomination at our meeting on the 12th.

That your convention saw fit to accord its highest honor to one who had been prominently and pointedly opposed to your party in the earnest and sometimes angry

CARTOON BY THOMAS NAST IN "HARPER'S WEEKLY," MAY 25, 1872, ENTITLED "ADDING INSULT TO INJURY—ANYTHING TO MAKE OUR REPUBLIC LOOK RIDICULOUS"

controversies of the last forty years is essentially noteworthy. That many of you originally preferred that the Liberal Republicans should present another candidate for President, and would more readily have united with us in the support of Adams or Trumbull, Davis or Brown, is well known. I owe my adoption at Baltimore wholly to the fact that I had already been nominated at Cincinnati, and that a concentration of forces upon any new ticket had been proved impracticable. Gratified as I am at your concurrence in the nominations, certain as I am that you would not have thus concurred had you not deemed me upright and capable, I find nothing in the circumstance calculated to inflame vanity or nourish self-conceit.

But that your convention saw fit, in adopting the Cincinnati ticket, to reaffirm the Cincinnati platform, is to me a source of profoundest satisfaction. That body was constrained to take this important step by no party necessity, real or supposed. It might have accepted the candidates of the Liberal Republicans upon grounds entirely its own, or it might have presented them (as the first Whig national convention did Harrison and Tyler) without adopting any platform whatever. That it chose to plant itself deliberately, by a vote nearly unanimous, upon the fullest and clearest enunciation of principles which are at once incontestably Republican and emphatically Democratic, gives trustworthy assurance that a new and more auspicious era is dawning upon our long-distracted country.

Some of the best years and best efforts of my life were devoted to a struggle none the less earnest or arduous because respect for constitutional obligations constrained me to act, for the most part, on the defensive, in resistance to the diffusion rather than in direct efforts for the extension of human bondage. Throughout most of those years my vision was uncheered, my exertions were rarely animated by even so much as a

hope that I should live to see my country peopled by freemen alone. The affirmance by your convention of the Cincinnati platform is a most conclusive proof that not merely is slavery abolished, but that its spirit is extinct; that, despite the protests of a respectable but isolated few, there remains among us no party and no formidable interests which regret the overthrow or desire the re-establishment of human bondage, whether in letter or in spirit. I am thereby justified in my hope and trust that the first century of American independence will not close before the grand elemental truths on which its rightfulness was based by Jefferson and the Continental Congress of 1776 will no longer be regarded as "glittering generalities," but will have become the universally accepted and honored foundations of our political fabric.

I demand the prompt application of those principles to our existing conditions. Having done what I could for the complete emancipation of blacks, I now insist on the full enfranchisement of all my white countrymen. Let none say that the ban has just been removed from all but a few hundred elderly gentlemen, to whom eligibility to office can be of little consequence. My view contemplates not the hundreds proscribed, but the millions who are denied the right to be ruled and represented by the men of their unfettered choice. Proscription were absurd if these did not wish to elect the very men whom they were forbidden to choose.

I have a profound regard for the people of that New England wherein I was born, in whose common schools I was taught. I rank no other people above them in intelligence, capacity, and moral worth. But, while they do many things well, and some admirably, there is one thing which I am sure they cannot wisely or safely undertake, and that is the selection, for States remote from and unlike their own, of the persons by whom those States shall be represented in Congress. If they do all

this to good purpose, then republican institutions were unfit, and aristocracy the only true political system.

Yet what have we recently witnessed? Zebulon B. Vance, the unquestionable choice of a large majority of the present legislature of North Carolina—a majority backed by a majority of the people who voted at its

MR. GREELEY ON THE MORNING AFTER ELECTION
(From the original sketch by Thomas Nast)

election—refused the seat in the federal Senate to which he was fairly chosen, and the legislature thus constrained to choose another in his stead or leave the State unrepresented for years. The votes of New England thus deprived North Carolina of the Senator of her choice, and compelled her to send another in his stead—another who, in our late contest, was, like Vance, a Confederate, and a fighting Confederate, but one who had not served in Congress before the war as Vance had, though the

latter remained faithful to the Union till after the close of his term. I protest against the disfranchisement of a State—presumptively, of a number of States—on grounds so narrow and technical as this. The fact that the same Senate which refused Vance his seat proceeded to remove his disabilities after that seat had been filled by another only serves to place in stronger light the indignity to North Carolina, and the arbitrary, capricious tyranny which dictated it.

. . . . . .

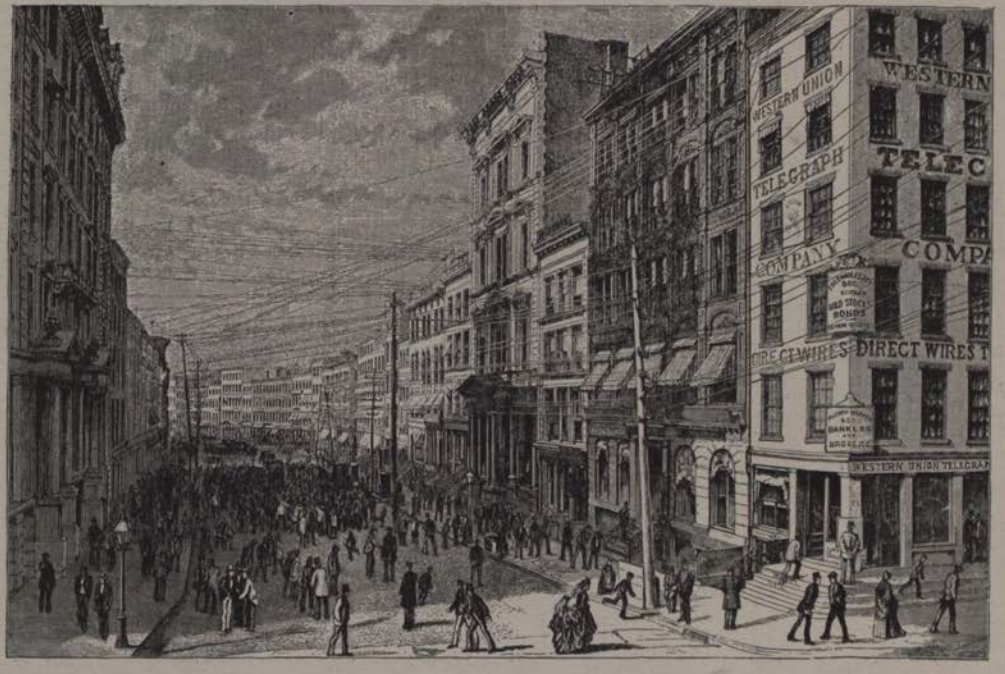
Gentlemen, your platform, which is also mine, assures me that Democracy is not henceforth to stand for one thing and Republicanism for another, but that those terms are to mean in politics, as they always have meant in the dictionary, substantially one and the same thing —namely, equal rights regardless of creed, or clime, or color. . . .

"Demonetization" of Silver Coin, 1873

Under the coinage Act of 1837 the silver dollar was reduced from 416 to 412½ grains. Although there was no popular demand for this coin, the mint continued to issue it until April 1, 1873, when the silver dollar of 1792 and 1837 ceased to have a place in the national coinage, the issue having been discontinued by the Act of February 12, 1873. The chief provisions of the Act, which were said at the time to have "upset values," are subjoined. From the text in "United States Statutes at Large," Vol. XVII., pp. 424–436. (See page 93.)

Sec. 14. That the gold coins of the United States shall be a one-dollar piece, which, at the standard weight of twenty-five and eight-tenths grains, shall be the unit of value; a quarter-eagle, or two-and-a-half-dollar piece; a three-dollar piece; a half-eagle, or five-dollar piece; an eagle, or ten-dollar piece; and a double eagle, or twenty-dollar piece . . . ; which coins shall be a legal tender in all payments at their nominal value when not below the standard weight and limit of tolerance provided in this act for the single piece, and, when reduced in weight, below said standard and tolerance, shall be a legal tender at valuation in proportion to their actual weight. . . .

Sec. 15. That the silver coins of the United States shall be a trade-dollar, a half-dollar, or fifty-cent piece, a quarter-dollar, or twenty-five-cent piece, a dime, or ten-cent piece . . .; and said coins shall be a legal tender



WALL STREET IN THE PANIC OF 1873

(With the suspension of Henry Clews & Co. and that of Howes & Macy throngs of depositors besieged both offices and the police had to be called out to maintain order. From a drawing in *Harper's Weekly*, October 11, 1873, after a photograph by Rockwood)

at their nominal value for any amount not exceeding five dollars in any one payment.

SEC. 16. That the minor coins of the United States shall be a five-cent piece, a three-cent piece, and a one-cent piece . . . ; which coins shall be a legal tender, at their nominal value, for any amount not exceeding twenty-five cents in any one payment.

SEC. 17. That no coins, either of gold, silver, or minor coinage, shall hereafter be issued from the mint other than those of the denominations, standards, and weights herein set forth.

Act to Enforce the Rights of Negroes, 1875

This Act, entitled "An Act to Protect All Citizens in Their Civil and Legal Rights," is probably better known as the "Second Civil Rights Act." It was the result of more than three years' agitation in Congress, during which time several bills were introduced, but without result, until a substitute for a bill from the House Committee on the Judiciary was adopted in each House and approved March 1, 1875. Extracts from text in "United States Statutes at Large," Vol. XVIII., pp. 335–337. (See page 98.)

Whereas, it is essential to just government we recognize the equality of all men before the law, and hold that it is the duty of government in its dealings with the people to mete out equal and exact justice to all, of whatever nativity, race, color, or persuasion, religious or political; and it being the appropriate object of legislation to enact great fundamental principles into law: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all persons within the jurisdiction of the United States shall be entitled to the full and equal enjoyment of the accommodations, advantages, facilities, and privileges of inns, public conveyances on land or water, theaters, and other places of public amusement; subject only to the conditions and limitations established by law, and applicable alike to citizens of every race and

color, regardless of any previous condition of servitude.

SEC. 2. That any person who shall violate the foregoing section by denying to any citizen, except for reasons by law applicable to citizens of every race and color, and regardless of any previous condition of servitude, the full enjoyment of any of the accommodations, advantages, facilities, or privileges in said section enumerated, or by aiding or inciting such denial, shall, for every such offense, forfeit and pay the sum of five hundred dollars to the person aggrieved thereby, to be recovered in an action of debt, with full costs; and shall also, for every such offense, be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than five hundred nor more than one thousand dollars, or shall be imprisoned not less than thirty days nor more than one year. . . .

SEC. 3. That the district and circuit courts of the United States shall have, exclusively of the courts of the several States, cognizance of all crimes and offenses against, and violations of, the provisions of this act . . .

SEC. 4. That no citizen possessing all other qualifications which are or may be prescribed by law shall be disqualified for service as grand or petit juror in any court of the United States, or of any State, on account of race, color, or previous condition of servitude; and any officer or other person charged with any duty in the selection or summoning of jurors who shall exclude or fail to summon any citizen for the cause aforesaid shall, on conviction thereof, be deemed guilty of a misdemeanor, and be fined not more than five thousand dollars.

Act for Counting the Electoral Vote, 1877

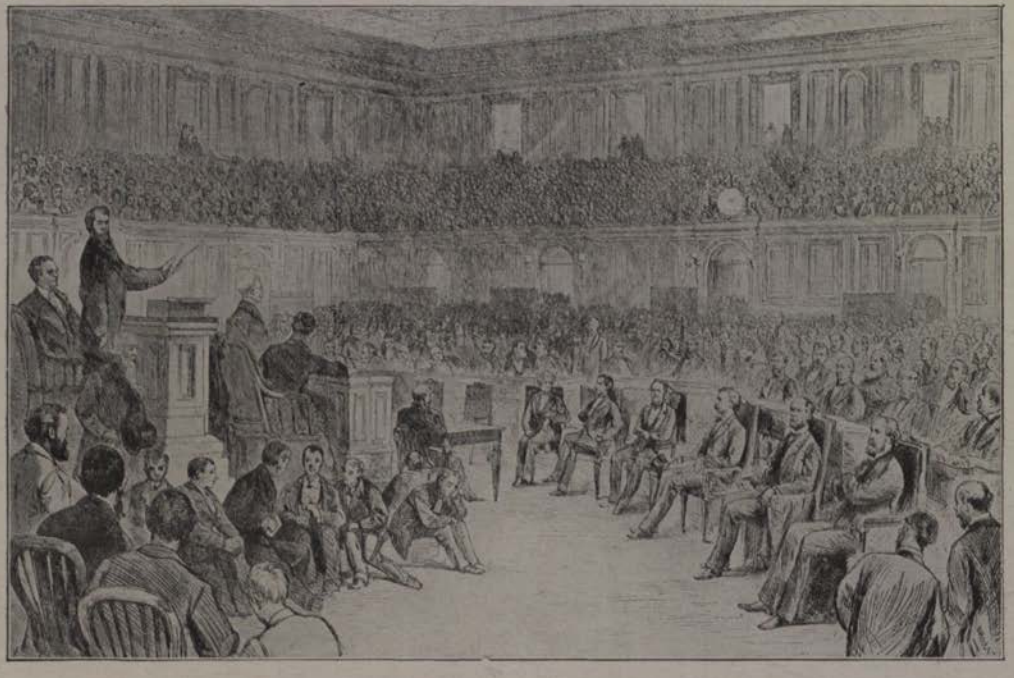
Serious complications having arisen over the Presidential election of 1876, Congress undertook to provide a plan for counting the electoral votes, and, after some preparatory legislation, passed a bill which was approved on January 29, 1877. It is entitled "An Act to Provide for and Regulate the Counting of the Votes for President and Vice-President, and the Decision of Questions arising thereon, for the Term commencing March 4th, A. D. 1877." Extracts from text in "United States Statutes at Large," Vol. XIX., pp. 227–229. (See page 108.)

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That the Senate and House of Representatives shall meet in the hall of the House of Representatives, at the hour of one o'clock post meridian, on the first Thursday in February, . . . [1877]; and the President of the Senate shall be their presiding officer. Two tellers shall be previously appointed on the part of the Senate, and two on the part of the House of Representatives, to whom shall be handed, as they are opened by the President of the Senate, all the certificates, and papers purporting to be certificates, of the electoral votes, which certificates and papers shall be opened, presented, and acted upon in the alphabetical order of the States, beginning with the letter A; and said tellers having then read the same in the presence and hearing of the two

Houses, shall make a list of the votes as they shall appear from the said certificates; and the votes having been ascertained and counted as in this act provided, the result of the same shall be delivered to the President of the Senate, who shall thereupon announce the state of the vote, and the names of the persons, if any, elected, which announcement shall be deemed a sufficient declaration of the persons elected President and Vice-President of the United States, and, together with a list of the votes, be entered on the journals of the two Houses. Upon such reading of any such certificate or paper when there shall be only one return from a State, the President of the Senate shall call for objections, if any. Every objection shall be made in writing, and shall state clearly and concisely, and without argument, the ground thereof, and shall be signed by at least one Senator and one member of the House of Representatives before the same shall be received. When all objections so made to any vote or paper from a State shall have been received and read, the Senate shall thereupon withdraw, and such objections shall be submitted to the Senate for its decision; and the Speaker of the House of Representatives shall, in like manner, submit such objections to the House of Representatives for its decision; and no electoral vote or votes from any State from which but one return has been received shall be rejected except by the affirmative vote of the two Houses. When the two Houses have voted, they shall immediately again meet, and the presiding officer shall then announce the decision of the question submitted.

SEC. 2. That if more than one return, or paper purporting to be a return from a State, shall have been received by the President of the Senate, purporting to be the certificates of electoral votes given at the last preceding election for President and Vice-President in such State, (unless they shall be duplicates of the same return,) all such returns and papers shall be opened by

him in the presence of the two Houses when met as aforesaid, and read by the tellers, and all such returns and papers shall thereupon be submitted to the judgment and decision as to which is the true and lawful electoral vote of such State, of a commission constituted as follows, namely: During the session of each House on the Tuesday next preceding the first Thursday in February, 1877, each House shall, by *viva voce* vote, appoint five of its members, who with the five associate justices of the Supreme Court of the United States, to be ascertained as hereinafter provided, shall constitute a commission for the decision of all questions upon or in respect of such double returns named in this section. On the Tuesday next preceding the first Thursday in February, A. D. 1877, or as soon thereafter as may be, the associate justices of the Supreme Court of the United States, now assigned to the first, third, eighth, and ninth circuits shall select, in such manner as a majority of them shall deem fit, another of the associate justices of said court, which five persons shall be members of said commission; and the person longest in commission of said five justices shall be the president of said commission. [Here a special oath is prescribed.] . . . All the certificates and papers purporting to be certificates of the electoral votes of each State shall be opened, in the alphabetical order of the States, as provided in section 1 of this act; and when there shall be more than one such certificate or paper, as the certificates and papers from such State shall so be opened, (excepting duplicates of the same return,) they shall be read by the tellers, and thereupon the President of the Senate shall call for objections, if any. Every objection shall be made in writing, and shall state clearly and concisely, and without argument, the ground thereof, and shall be signed by at least one Senator and one member of the House of Representatives before the same shall be received. When all such objections so made to any



COUNTING THE VOTES AFTER THE DISPUTED HAYES-TILDEN ELECTION OF 1876. DAVID DUDLEY FIELD OBJECTS TO THE VOTE OF FLORIDA

(From a sketch by Theodore R. Davis, published in *Harper's Weekly*, February 17, 1877)

certificate, vote, or paper from a State shall have been received and read, all such certificates, votes, and papers so objected to, and all papers accompanying the same, together with such objections, shall be forthwith submitted to said commission, which shall proceed to consider the same, with the same powers, if any, now possessed for that purpose by the two Houses acting separately or together, and, by a majority of votes, decide whether any and what votes from such State are the votes provided for by the Constitution of the United States, and how many and what persons were duly appointed electors in such State, and may therein take into view such petitions, depositions, and other papers, if any, as shall, by the Constitution and now existing law, be competent and pertinent in such consideration; which decision shall be made in writing, stating briefly the ground thereof, and signed by the members of said commission agreeing therein; whereupon the two Houses shall again meet, and such decision shall be read and entered in the Journal of each House, and the counting of the votes shall proceed in conformity therewith, unless, upon objection made thereto in writing by at least five Senators and five members of the House of Representatives, the two Houses shall separately concur in ordering otherwise, in which case such concurrent order shall govern. No votes or papers from any other State shall be acted upon until the objections previously made to the votes or papers from any State shall have been finally disposed of. . . .

The Hayes-Tilden Electoral Count, 1877

The twenty disputed electoral votes of the Hayes-Tilden election of 1876 raised many questions regarding the powers and duties of election boards, and also regarding judicial decisions and Congressional authority. It was found that if all the disputed votes were counted for Mr. Hayes, he would be chosen by one vote. In addition to the great partisan activities of the supporters of both Mr. Hayes and Mr. Tilden, there was much done to determine the actual authority and source of authority which should control the decision in each particular case. Mr. Tilden had an examination made of the debates and other records of Congress from 1789 to 1872, in order to show the powers of Congress in such cases. John Bigelow, in his "Writings and Speeches of Samuel J. Tilden," published by Harper & Brothers, 1885, says, Vol. II., p. 385, that the conclusions of the inquiry instituted by Mr. Tilden were threefold, as follows:

1. That the exclusive jurisdiction of the two Houses to count the electoral votes by their own servants and under such instructions as they might deem proper to give, has been asserted from the beginning of the Government.

2. That the President of the Senate, although he has uniformly, in person or by some substitute designated by the Senate, performed the constitutional duty of opening the electoral votes, has never in a single in-

stance attempted to go a step beyond that narrow and limited function; has in no instance attempted to determine what votes he should open; but has opened all and submitted them to the action of the two Houses, unless required to omit particular votes by their concurrent orders.

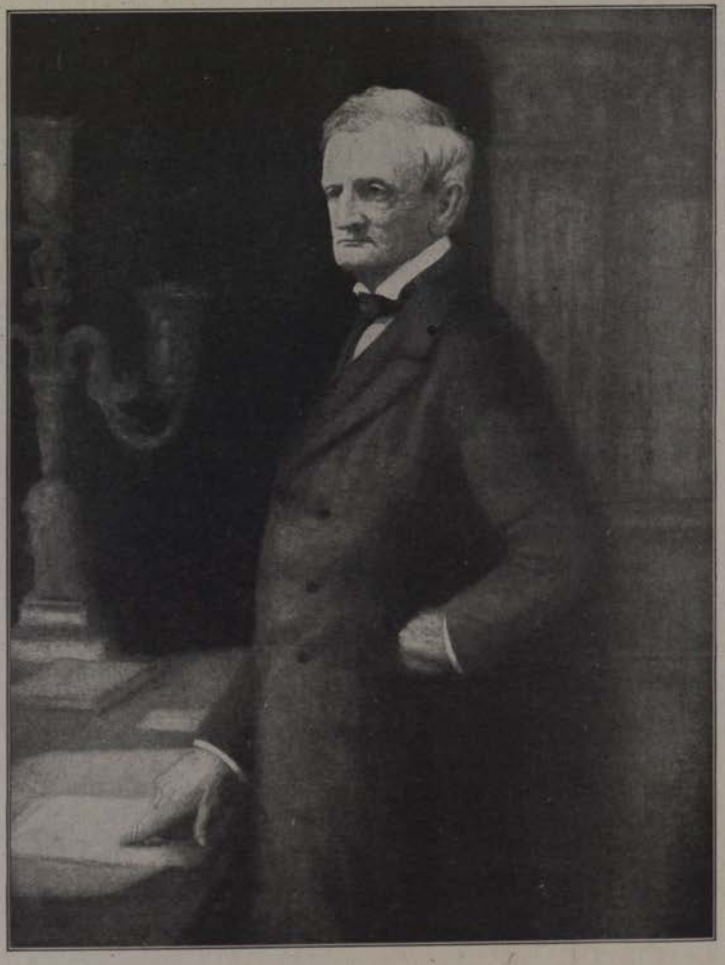
3. That the two Houses have not only always exercised exclusively the power to count the electoral vote in such manner and by such agents as they might choose to do it, but they have exercised the right to fix and establish the methods of procedure by standing rules.

The report of Mr. Tilden follows on pages 386 to 450, except that Mr. Bigelow omitted several pages of citations of speeches and votes of men then prominent at Washington. The following selections are from Mr. Bigelow's edition of Mr. Tilden's report. (See page 108.)

There have been twenty-one Presidential elections under our Federal Constitution; but until now the methods of canvassing the electoral votes at the seat of government have never presented questions of much practical importance, except so far as they establish precedents for the future.

The main result of the Federal canvass, whenever there has been an election by the people, has always been known in advance of the meeting of Congress; and though questions as to the authenticity or validity of votes have repeatedly arisen, their solution has in no instance hitherto made any practical difference with the result.

Now, for the first time, the disputed votes may decide the result of the election. There are one hundred and eighty-four uncontested votes on one side, one hundred and sixty-five on the other, and twenty in dispute. It will be necessary for the constituted authori-



WILLIAM M. EVARTS

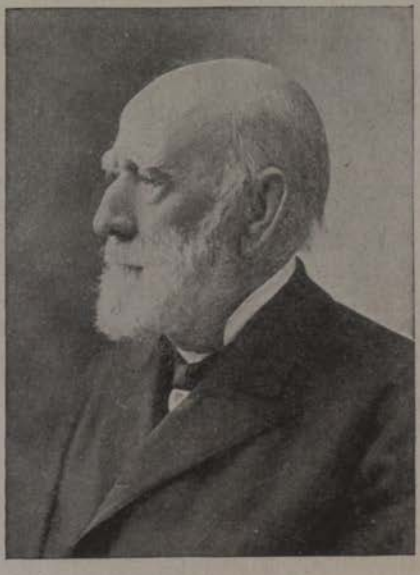
(From the painting by August Franzen. In the Hayes-Tilden contest Mr. Evarts was the leading counsel for the Republicans before the Electoral Commission, making the point that the court had no power to go behind the returns, but must consider only the regularity of the certificates. In 1877 he was appointed Secretary of State by President Hayes. In 1881 he went to Paris as delegate of the United States to the International Monetary Conference, and was United States Senator from 1885 to 1891)

ties, in some instances, to pass upon the authenticity or validity of duplicate electoral certificates from the same States. Where the authority lies that is to decide such an issue has thus become a question of the gravest import; for upon it may depend not merely the control of this Government during the next Presidential term, but the perpetuity of our political institutions and the confidence of our people and of all mankind in the elective system and in the principle of popular sovereignty.

The provisions of the Constitution furnish a pretext for some diversity of opinion upon this subject, especially when it is investigated under the glamour of fervid partisanship, and when the choice of candidates may depend upon the interpretation those provisions receive. The Constitution provides that the certificates of the votes given by the electors, which are transmitted to the seat of government, shall be delivered to the President of the Senate, and that the President of the Senate shall, in the presence of the two Houses of Congress, open all the certificates, and that "they shall then be counted."

By whom the votes shall be counted; how far the counting is a simple matter of enumeration; and how far it involves the additional duty of determining the authenticity and validity of the certificates presented,—are questions in the solution of which the practice of the Government is our best guide. Attempts have been made at various times to secure supplementary legislation to meet the exigency which is now presented to the country; but none of these efforts were fortunate enough to unite a majority of the Federal legislature in its favor. The difficulty now has to be met under aggravated disadvantages. The two Houses are divided in their preference for the respective candidates. Questions will be raised as to the authenticity or validity of some of the electoral certificates to be presented, upon the reception or rejection of which the result of the election may finally

depend. In view of the difficulties which our legislators will experience, with two great armies of more or less heated partisans behind them, in legislating upon this subject with suitable impartiality, it is the disposition and it will be the manifest duty of every patriotic member of our Federal legislature to adhere as closely as possible to the precedents which have been sanctioned by time and continuous usage. A less auspicious moment for engaging in experiments and for introducing new methods of canvassing the electoral vote could scarcely be imagined. The wisest devices which have not the sanction of precedent would now fall a prey to merited suspicion and distrust.



GEORGE F. EDMUNDS

(United States Senator from Vermont, 1866–91, and member of the Electoral Commission of 1877)

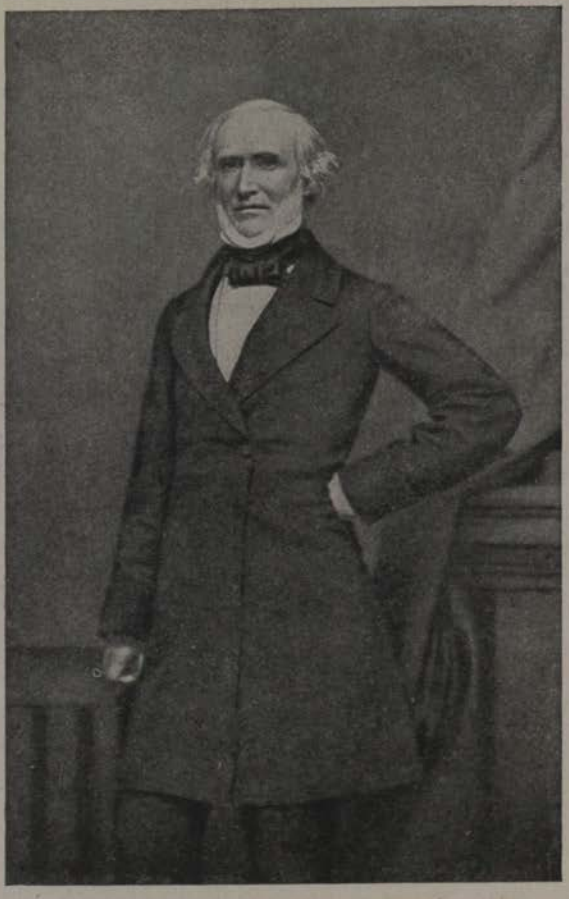
It is in deference to this conviction that the following compilation is submitted to the public. It is intended to embrace a perfect and complete record of the canvass in the two Houses of Congress, with all the debates to which they have given rise, taken from the official reports. Scattered as the originals are, through some forty or fifty cumbrous and not readily accessible volumes, it would be a task which very few could or would undertake, to make themselves even tolerably familiar with the way in which this quadrennial duty

of the two Houses of Congress has been discharged hitherto.

By the aid of this compilation, however, no one interested in the subject will have a good excuse for remaining in ignorance of the precedents which have been established, and in accordance with which it is to be presumed all proceedings at this final canvass of the electoral vote cast in 1876 will be conducted. For the convenience of those who may have occasion to investigate this subject, the more important usages or precedents which the practice of nearly a century has established in regard to the methods of opening, counting, and announcing the result of the electoral votes for President and Vice-President of the United States will be here recapitulated.

The Constitution provides that the electors of President and Vice-President shall "transmit" the certificates of their votes to the seat of the government, "directed to the President of the Senate;" and that "the President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted."

At the first organization of the Government, in 1789, there being no President of the Senate, a provisional arrangement was necessary. The votes had been transmitted to the secretary of the Congress of the old Confederation. The senators, on assembling in conformity to the suggestion made by a resolution of the Convention of 1787, chose a President "for the sole purpose of opening the certificates and counting the votes" of the electors, appointed one teller, and sent a message informing the House of their action and their readiness to proceed to the count of the votes. The House appointed two tellers, and assembled with the Senate. The resolution of the Senate, while declaring that its special President had been appointed for the sole purpose of opening the certificates and counting the electoral



CHARLES O'CONOR

(One of the leading counsel for Samuel J. Tilden before the Electoral Commission of 1877. The ablest advocate of his day, and at this time seventy-two years old)

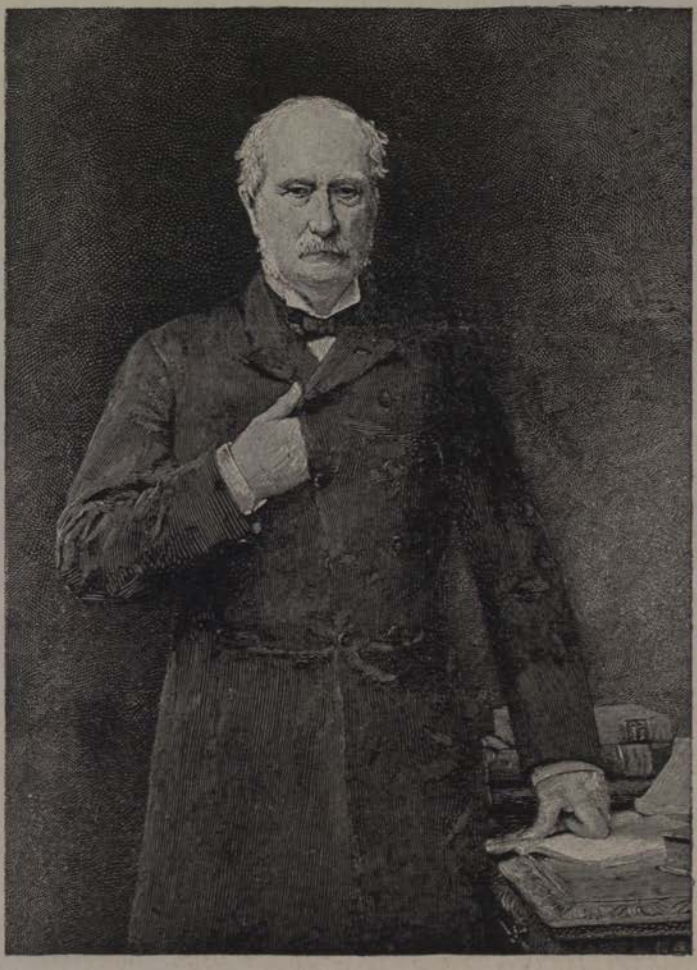
votes, did not designate the person or persons by whom the votes should be counted. It might have been their intention that while the President of the Senate should open the packages, the two Houses when convened should count the votes themselves, or determine by whom they should be counted. This would reflect completely the sense of the resolution which stated the purposes of the meeting, but not the agents who were to execute those purposes. The President of the Senate, however, reported to the two Houses that they had met and that he had opened and counted the votes. The election of Washington as President was unanimous, and everything was done rather as a formality, and without debate as without deliberation. The counting involved nothing beyond a mere computation; and even that meagre power, so far as exercised by the special President, was not assumed as an official right, but was derived from an express resolution of the Senate and the assent of the House. The counting was done under a special appointment for that sole purpose before the Senate had elected its President *pro tempore*. In the nature of the case, what was done on that occasion can have no authority as a precedent.

At the second election, in 1793, the two Houses established a regular procedure for the counting of the electoral votes—a procedure which has been substantially followed ever since. They assumed and exercised the power of prescribing by concurrent resolutions of the two Houses a mode of counting.

That mode was devised and reported by a joint committee of the two Houses. The committee was raised under concurrent resolutions charging them, among other things, with this duty:—

February, 1793, "to ascertain and report a mode of examining the votes for President and Vice-President," p. 2.

February, 1797, "to ascertain and report a mode of examining the votes for President and Vice-President," p. 5.



DAVID DUDLEY FIELD

(From the painting by Robert Gordon Hardie in the Hall of the Court of Appeals, Capitol, Albany, New York. Brother of Justice Stephen J. Field, a member of the Electoral Commission of 1877. David Dudley Field espoused the Tilden cause and rose to present the formal objections of the Democrats to the Republican Certificate from Florida)

January, 1801, "to ascertain and report a mode of examining the votes for President and Vice-President," p. 10.

February, 1805, "to ascertain and report a mode of examining the votes for President and Vice-President," p. 19.

February, 1809, "to ascertain and report a mode of examining the votes for President and Vice-President," p. 22.

February, 1813, "to ascertain and report a mode of examining the votes for President and Vice-President," p. 26.

February, 1817, "to ascertain and report a mode of examining the votes for President and Vice-President," p. 29.

February, 1821, "to ascertain and report a mode of examining the votes for President and Vice-President," p. 34.

February, 1825, "to ascertain and report a mode of examining the votes for President and Vice-President," p. 86.

February, 1829, "to ascertain and report a mode of examining the votes for President and Vice-President," p. 89.

February, 1833, "to ascertain and report a mode of examining the votes for President and Vice-President," p. 90.

February, 1837, "to ascertain and report a mode of examining the votes for President and Vice-President," p. 98.

February, 1841, "to ascertain and report a mode of examining the votes for President and Vice-President," p. 98.

February, 1845, "to ascertain and report a mode of examining the votes for President and Vice-President," p. 100.

February, 1849, "to ascertain and report a mode of examining the votes for President and Vice-President," p. 104.

February, 1853, "to ascertain and report a mode of examining the votes for President and Vice-President," p. 107.

February, 1857, "to ascertain and report a mode of examining the votes for President and Vice-President," p. 112.

February, 1861, "to ascertain and report a mode of examining the votes for President and Vice-President," p. 170.

January, 1865, "to ascertain and report a mode of examining the votes for President and Vice-President," p. 257.

On all occasions prior to 1865 the mode reported was for that election only. In 1865 the joint committee reported a permanent standing rule, called "the twenty-second joint rule," which governed the counts in 1865, 1869, and 1873.

The phrase "mode of examining the votes" imports a verification, to some extent, of the votes. The resolutions included some other objects,—always the noti-

fication of the persons elected, until 1865, when, on the adoption of the twenty-second joint rule, the notification was by a separate resolution; often "regulating the time, place, and manner of administering the oath to the President;" sometimes, as in 1857, the question of ineligible electors; or, as in 1821, 1837, 1857, and 1869, the dealing with disputed votes.

Every one of these resolutions asserts the rightful power of the two Houses over the counting; and that power was asserted in twenty-one successive elections without denial or question. Every one of these resolutions is incompatible with the existence of any power whatever over the subject on the part of the President of the Senate. If he had a constitutional right to govern the count, no one of these resolutions would have been valid.

After the mode of examining the votes was "ascertained and reported" by the committees, the two Houses, by concurrent resolution, have adopted the mode finally agreed upon. They have not only asserted their power over the counting in the creation of those committees, but in all cases have again asserted it by a formal and authoritative adoption of the work of the committees by concurrent resolution of the two Houses.

The resolution prescribing the mode of counting has always begun by fixing the time and place of the joint meeting of the two Houses for the purpose of counting the electoral votes.

The places of meeting to count the electoral votes have been determined invariably by a joint resolution of the two Houses. At the two elections of General Washington they met in the Senate Chamber. At the election of John Adams the Senate joined the House in the Hall of the Representatives. At the several elections of Thomas Jefferson, in 1801, and 1805, the two Houses met in the Senate Chamber. Since then they have invariably met in the Hall of the Representatives,

making four times in the Senate Chamber, and seventeen times in the Hall of the Representatives.

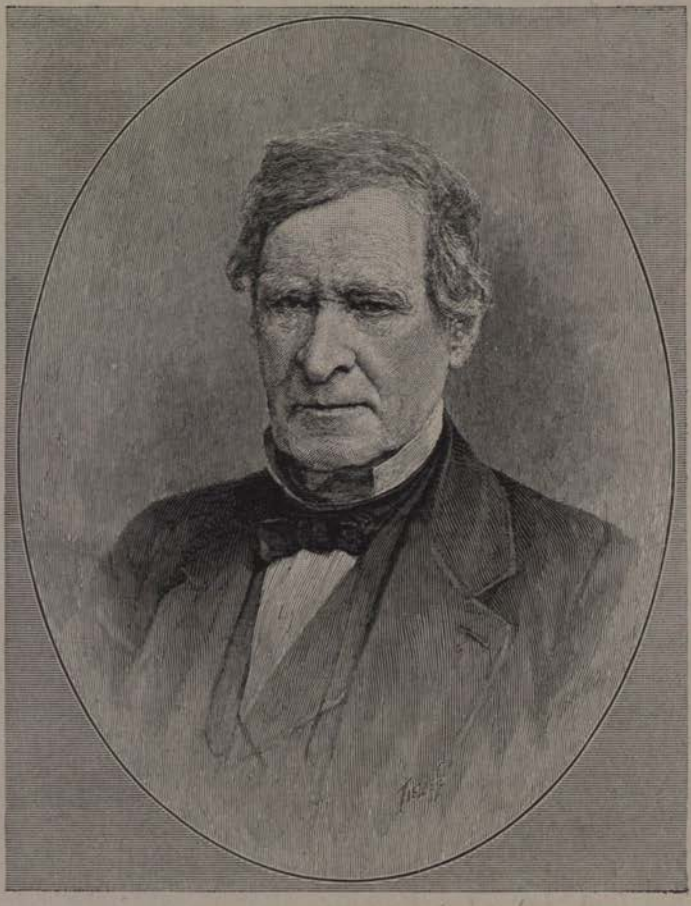
The resolutions prescribing the mode of counting have always contained a provision that one teller on the part of the Senate, and two tellers on the part of Representatives, should be appointed; and in every counting of the electoral votes since the formation of the Government, two tellers have acted for the House of Representatives and one teller has acted for the Senate. Even in the anomalous counting of 1789, that was so. At every counting, from 1793 to 1873, inclusive, the House by a resolution has appointed two tellers and the Senate has appointed one teller. In the language of Senator Boutwell, "the tellers were the organs, the instruments, the hands of the respective Houses; the votes were counted by the tellers, and being counted by the tellers, they were counted by the two Houses; and therefore there never has been any different practice, and no different practice could have arisen under the Constitution. The two Houses in convention have from the first until now counted the votes."

The fact that the tellers have always been appointed by the two Houses,—have held these trusts at the pleasure of the two Houses, subject to their orders and instructions, and wholly free from the control of the President of the Senate,—is of itself decisive in favor of the right of the Houses to count the votes, and is equally decisive against any pretension on the part of the President of the Senate to govern or in any manner to interfere with the counting.

At every counting, from 1793 to 1861, inclusive, the resolutions adopted by the two Houses have defined the duty of the tellers to be,—

1. "To make a list of the votes as they shall be declared."

2. "The result shall be delivered to the President of the Senate."



JEREMIAH S. BLACK

(One of the leading counsel for Tilden before the Electoral Commission of 1877. He afterward wrote an able argument against the decision of the commission in favor of Hayes)

In practice, the tellers have read the votes, one by one, after they have been opened or the seals sometimes broken, sometimes unbroken, by the presiding officer, or in some instances the packages with unbroken seals handed over by the presiding officer; have read each certificate in full to the two Houses, which, in the phraseology of the resolutions, is the "declaring" of the vote in each certificate, and is sometimes so called in the journals; have entered each vote so declared upon a list; and then have delivered the result to the presiding officer.

The joint rule governing the counting in 1865, 1869, and 1873 defines the function of the tellers as follows:—

"One teller shall be appointed on the part of the Senate and two on the part of the House of Representatives, to whom shall be handed, as they are opened by the President of the Senate, the certificates of the electoral votes; and said tellers, having read the same in the presence and hearing of the two Houses then assembled, shall make a list of the votes as they shall appear from the said certificates; and the vote having been counted, the result of the same shall be delivered to the President of the Senate."

It is to be observed that the phraseology of the joint rule deems the counting to be completed while the certificates are in the hands of the tellers, after they have been opened and handed to the tellers, and before the result has been delivered to the presiding officer. It is to be observed also that all questions as to the authenticity or validity of any vote must be raised and must be submitted to and determined by the two Houses before the votes have left the hands of the tellers. That has been the invariable practice from the beginning of the Government in every case of a disputed vote. That practice was defined and stated and adopted in the joint rule established in 1865; it was expressed as follows:—

"If upon the reading of any such certificate by the tellers any question shall arise in regard to counting the votes therein cer-

tified, the same having been stated by the presiding officer, the Senate shall thereupon withdraw, and said question shall be submitted to that body for its decision; and the Speaker of the House of Representatives shall in like manner submit said question to the House of Representatives for its decision; and no question shall be decided affirmatively, and no vote objected to shall be counted, except by the concurrent votes of the two Houses, which being obtained, the two Houses shall immediately reassemble, and the presiding officer shall then announce the decision of the question submitted; and upon any such question there shall be no debate in either House. And any other question pertinent to the object for which the two Houses are assembled may be submitted and determined in like manner."

As to the implied custody of the votes before the counting, the Constitution (Amendments, Article XII. Section 1) provides that the electors "shall transmit" the certified lists of their votes for President and Vice-President "sealed to the seat of government of the United States, directed to the President of the Senate."

The statute of 1792 provides that "in case there shall be no President of the Senate at the seat of the government on the arrival of the persons intrusted with the certificates of the votes of the electors, then such persons shall deliver such certificates into the office of the Secretary of State, to be safely kept, and delivered over as soon as may be to the President of the Senate."

The Constitution (Article XI. Section 1, Sub-section 3, and Amendment 12, Section 1) provides that "the President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates."

At the time the provision that the sealed packages of votes to be transmitted by the electors to the seat of government and addressed to the President of the Senate came before the Convention of 1787, it was a part of the scheme that the President of the Senate should open all the certificates in the Senate, and that

the votes should then and there be counted; and that in the event of a failure of choice by the electoral colleges, the Senate should immediately elect both the President and Vice-President.

The report of the committee was modified by providing that the President of the Senate should open all the certificates "in the presence of the Senate and the House of Representatives;" and then the election of President, on the failure of a choice by the colleges, was taken away from the Senate and given to the House of Representatives. But the power, on a failure of a choice by the colleges, to elect the Vice-President, remained in the Senate. The requirement that the certificates transmitted to the seat of government should be addressed to the President of the Senate under seal, and that the packages should be opened in the presence of the official bodies which were to take jurisdiction of the facts and remedy any failure in the choice by the electoral colleges, was allowed to stand. These provisions were intended to secure the votes given by the electors at their meetings in the several States from being tampered with, until they should come into the actual possession of the two Houses.

The House of Representatives and the Senate had not only a right, but also a duty and an official necessity, to know in the most authentic manner the result of the votes given in the electoral colleges. In the first place, the House of Representatives, on the failure of a choice of President by the electoral colleges, was charged with the duty of electing the President. The fact of the failure of the colleges, as specified and defined in the Constitution, was the sole basis of the jurisdiction of the House to act. Its own means of "examining the votes for President and Vice-President" (such is the language of all the concurrent resolutions of the two Houses from 1793 to 1865, and of the joint standing rule by which they were replaced in 1865) was the

only evidence provided by the Constitution of the fact on which the House acquired jurisdiction.

No judgment, certification, or act of any other official body was interposed as a condition. The House is a witness of the opening of the certificates; it is an actor in the counting of the votes by its own tellers and in its presence. "And if no person have" a "majority" of "the electors appointed, then from the persons having the highest numbers, not exceeding three, in the list of those voted for as President, the House of Representatives shall choose immediately by ballot the President." Such is the imperative command of the Constitution. And when the House has acted in such a case, there is no review of its action, nor any appeal from its decision.

The Senate has a similar jurisdiction, on the failure of a choice of Vice-President by the electoral colleges, to elect the Vice-President. It has the same right, duty, and official necessity to know the result of the votes.

THE END OF VOLUME IX

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